CONTENTS

NOTICE FOREWORD PREFACE THE AUTHORS ABBREVIATIONS	v xv xvii xix xxi
CHAPTER 1 INTRODUCTION	1
A. ARBITRATION AS A PRIVATE METHOD OF SETTLING DISPUTES 1. Arbitration as an Alternative to Court Proceedings 2. Arbitration as an Alternative to Court Proceedings in International Legal	1 1
Relations	2
3. Relation between Arbitration and Other Methods of Settling Private Disputes Out of Court	2
B. LINKS BETWEEN ARBITRATION AND STATE COURTS	3
C. 'AD HOC' ARBITRATION PROCEDURE 1. Initiation of the Arbitration and Constitution of the Arbitral Tribunal 2. Conduct of Arbitration Proceedings	6 6 7
D. INSTITUTIONAL ARBITRATION	10
E. ICC ARBITRATION	10
CHAPTER 2 THE INTERNATIONAL CHAMBER OF COMMERCE AND ITS COURT OF ARBITRATION	13
A. THE INTERNATIONAL CHAMBER OF COMMERCE AS AN INSTITUTION	13
B. THE ICC DISPUTE RESOLUTION SERVICES	13
C. THE HISTORICAL BACKGROUND OF THE RULES OF ARBITRATION	14
D. THE ICC INTERNATIONAL COURT OF ARBITRATION AND ITS SECRETARIAT 1. The Structure of the ICC International Court of Arbitration 2. The Role of the ICC International Court of Arbitration	1 5 15 15

3. How the ICC International Court of Arbitration Works	16
4. Avoiding Conflicts of Interest	18
5. The Composition of the Secretariat	18
6. The Tasks of the Secretariat	19
7. How the Secretariat Works	20
CHAPTER 3	
ARBITRAL PROCEEDINGS UNDER THE ICC RULES OF ARBITRATION OF	
2012	23
A. INTRODUCTORY PROVISIONS	23
1. Definitions (Art. 2)	23
2. Written Notifications or Communications; Time Limits (Art. 3)	24
B. COMMENCING THE ARBITRATION	26
1. The Request for Arbitration (Art. 4)	26
2. The Answer to the Request and Counterclaims (Art. 5)	38
3. The Effect of the Arbitration Agreement (Art. 6)	45
C. MULTIPLE PARTIES, MULTIPLE CONTRACTS AND CONSOLIDATION	52
1. The Joinder of Additional Parties (Art. 7)	53
2. Claims between Multiple Parties (Art. 8)	56
3. Multiple Contracts (Art. 9)	59
4. Consolidation of Arbitrations (Art. 10)	60
D. THE ARBITRAL TRIBUNAL	63
1. General Provisions (Art. 11)	63
2. The Constitution of the Arbitral Tribunal (Art. 12)	72
3. Appointment and Confirmation of Arbitrators (Art. 13)	78
4. Challenge of Arbitrators (Art. 14)	88
5. Replacement of Arbitrators (Art. 15)	92
E. THE ARBITRAL PROCEEDINGS	97
1. Transmission of the File to the Arbitral Tribunal (Art. 16)	97
2. Proof of Authority (Art. 17)	100
3. Place of the Arbitration (Art. 18)	101
4. Rules Governing the Proceedings (Art. 19)	105
5. Language of the Arbitration (Art. 20)	109
6. Applicable Rules of Law (Art. 21)	113
7. Conduct of the Arbitration (Art. 22)	120
8. Terms of Reference (Art. 23)	126
9. Case Management Conference and Procedural Timetable (Art. 24)	135
10. Establishing the Facts of the Case (Art. 25)	139 148
11. Hearings (Art. 26) 12. Closing of the Proceedings and Date for Submission of Draft Awards	148
(Art. 27)	153
13 Conservatory and Interim Measures (Art. 28)	155

F. EMERGENCY ARBITRATOR PROCEEDINGS	158
1. General Remarks	162
2. Commencement of the Emergency Arbitrator Proceedings	164
3. Appointment of the Emergency Arbitrator (App. V – Art. 2)	167
4. Challenge of the Emergency Arbitrator (App. V – Art. 3)	168
5. Proceedings before the Emergency Arbitrator (Art. 29(1); App. V – Art. 4 and 5)	168
/	
6. Order of the Emergency Arbitrator – Effect on the Arbitration Proceedings	169
7. Costs of the Emergency Arbitrator Proceedings (App. V – Art. 7)	171
8. General Rule (App. V – Art. 8)	172
9. An Application to a Judicial Authority does not Infringe the Emergency Arbitrator Provisions (Art. 29(7))	172
* * * * * * * * * * * * * * * * * * * *	172
10. Limitation of Liability (Art. 40)	173
G. ARBITRAL AWARDS	173
1. Time Limit for the Final Award (Art. 30)	173
2. Awards (Art. 31)	175
3. Award by Consent (Art. 32)	180
4. Scrutiny of Award by the Court (Art. 33)	182
5. Notification, Deposit, Enforceability of Awards (Art. 34)	187
6. Correction and Interpretation of Awards; Remission of Awards (Art. 35)	191
H. COSTS AND ADVANCES	195
1. Advance to Cover the Costs of the Arbitration (Art. 36)	195
2. Decision as to the Costs of the Arbitration (Art. 37)	212
3. Costs and Fees (Appendix III, Art. 2)	213
o. Good and rees (Appendix III, rit. 2)	210
I. MISCELLANEOUS PROVISIONS	226
1. Modified Time Limits (Art. 38)	226
2. Waiver (Art. 39)	227
3. Limitation of Liability (Art. 40)	228
4. General Rule Aimed at Filling Gaps (Art. 41)	229
CHAPTER 4	
CHAPTER 4 THE STANDARD ICC ARBITRATION CLAUSE	231
A. ARBITRATION CLAUSES IN GENERAL	231
B. RULES OF LAW APPLICABLE TO THE ARBITRATION AGREEMENT	233
C. QUESTIONS CONCERNING SPECIFIC SUPPLEMENTARY PROVISIONS IN	
THE ARBITRATION AGREEMENT	234
1. The Requirement to Attempt Mediation First and Other Prior Conditions	234
2. Arbitral Tribunals Composed of Two or an Even Number of Members	235
3. Nomination of Arbitrators by Third Parties	236
4. Possibility of Derogating from Certain Provisions of the ICC Rules	236
5. Items Worth Including in an Arbitration Agreement	237

CHAPTER 5	
OVERVIEW OF THE TIME LIMITS LAID DOWN IN THE ICC RULES OF	
ARBITRATION	239
1. Article 3(4) of the Rules: How Time Limits are Calculated	239
2. Article 4(2) of the Rules: Start of the Arbitral Proceedings	239
3. Article 4(4) of the Rules: Prerequisites for Filing a Valid Request for Arbitration	239
4. Article 5(1) and (2) of the Rules: Filing of an Answer to the Request for	
Arbitration	239
5. Article 5(6) of the Rules: Claimant's Reply to a Counterclaim	240
6. Article 11(2) of the Rules: Qualified Statement of Independence from an	
Arbitrator	240
7. Article 12(2) of the Rules: Nomination of Co-Arbitrators after the Court has	
Decided in Favour of a Three-Member Tribunal	240
8. Article 12(4) of the Rules: Nomination of Co-Arbitrators where the Parties	
Agree on a Three-Member Tribunal	240
9. Article 12(5) of the Rules: Nomination of the Person who will act as	
President of a Three-Member Tribunal	240
10. Article 12(3) of the Rules: Nomination of a Sole Arbitrator	240
11. Article 13(3) of the Rules: Appointment of a Co-Arbitrator upon the	
Proposal of a National Committee or Group when a Party Fails to	
make the Necessary Nomination	24
12. Article 14(2) of the Rules: Challenges of Arbitrators by Parties	24
13. Article 15(3) of the Rules: Replacement of Arbitrators by the Court	24
14. Article 23(2) of the Rules: Terms of Reference	24
15. Article 24(1) of the Rules: Case Management Conference	24
16. Article 24(2) of the Rules: Procedural Timetable	24
17. Article 27 of the Rules: Closing of the Proceedings	242
18. Article 27 of the Rules: Announcement of the Submission of the Draft	
Award to the Court	242
19. Article 30 of the Rules: The Award	242
20. Article 35 of the Rules: Correction of an Award	242
21. Article 35 of the Rules: Interpretation of an Award	242
22. Article 35(4) of the Rules: Remission of an Award	243
23. Article 36(1) of the Rules: Payment of the Provisional Advance on Costs	243
24. Article 36(6) of the Rules: Payment of the Advance on Costs	243
25. Article 38 of the Rules: Modification of Time Limits by the Parties	243
26. Article 39 of the Rules: Waiver	243
27. Article 1(8) of Appendix II to the Rules: Return of Documents at the End	
of the Arbitration	243
CHAPTER 6	
OTHER METHODS OF DISPUTE RESOLUTION UNDER ICC RULES	245
A. GENERAL REMARKS	245
B. ICC RULES FOR A PRE-ARBITRAL REFEREE PROCEDURE	246
1. Suggested ICC Pre-Arbitral Referee Clause	240
2. Characteristics	247
2. CHARACTERIOR	471

247

3. Powers of the Referee

4. Costs	248
C. ICC MEDIATION RULES	248
1. Mediation / Amicable Dispute Resolution	248
2. Suggested ICC Mediation Clauses	251
3. Commencement of Mediation Proceedings	252
4. Mediator	253
5. Conduct of Mediation Proceedings	254
6. Termination of Mediation Proceedings	255
7. Confidentiality	255
8. Limitation of Liability	256
9. Costs	256
10. Prior ICC Arbitration	257
11. Value Added Tax (VAT)	258
12. ICC as Appointing Authority	259
12. 100 to rappointing rations)	207
D. ICC EXPERT RULES	259
1. Proposal of Experts	261
2. Appointment of Experts	262
3. Administration of Expert Proceedings	263
4. Suggested Clauses for ICC Administered Expert Proceedings	266
of the second se	
E. ICC DOCDEX RULES	267
1. Conduct of DOCDEX Proceedings	269
2. DOCDEX Decision	270
F. ICC RULES FOR DISPUTE BOARDS	271
1. Dispute Board Proceedings	271
2. Suggested Clauses for ICC Dispute Board Proceedings	273
CHAPTED 7	
CHAPTER 7 STATISTICAL INFORMATION ON ICC ARBITRATION	277
STATISTICAL INTORVINITION ON ICC ARBITRATION	211
CHAPTER 8	
BIBLIOGRAPHY ON ICC ARBITRATION	289
A. ICC ARBITRAL AWARDS	289
B. BOOKS ON ICC ARBITRATION	290
C. DOSSIERS OF THE ICC INSTITUTE OF WORLD BUSINESS LAW	291
C. DOSSIERS OF THE ICC INSTITUTE OF WORLD BUSINESS LAW	291
D. WEB SITES CONTAINING Materials AND INFORMATION ON	
INTERNATIONAL ARBITRATION	292
Materials Referred to in this Book	292
2. Other Internet Resources	292
=. Care menter reconnect	2/2

Contents

APPENDIX 1 ICC RULES OF ARBITRATION (1 JANUARY 2012)	295
APPENDIX 2 ICC ARBITRATOR STATEMENT OF ACCEPTANCE, AVAILABILITY, IMPARTIALITY AND INDEPENDENCE (2012 RULES)	327
APPENDIX 3 MODEL CURRICULUM VITAE FOR ICC ARBITRATORS	329
APPENDIX 4 SECRETARIAT'S NOTE TO PARTIES IN PROCEEDINGS UNDER THE 2012 ICC RULES OF ARBITRATION	333
APPENDIX 5 SECRETARIAT'S NOTE ON ARTICLE 36(4) OF THE 2012 ICC RULES OF ARBITRATION	337
APPENDIX 6 SECRETARIAT'S NOTE ON ICC EMERGENCY ARBITRATOR PROCEEDINGS (2012 RULES)	339
APPENDIX 7 EMERGENCY ARBITRATOR'S STATEMENT OF ACCEPTANCE, AVAILABILITY, IMPARTIALITY AND INDEPENDENCE (2012 RULES)	341
APPENDIX 8 SECRETARIAT'S ICC EMERGENCY ARBITRATOR ORDER CHECKLIST (2012 RULES)	343
APPENDIX 9 SECRETARIAT'S NOTE TO THE ARBITRAL TRIBUNAL ON THE CONDUCT OF THE ARBITRATION (2012 RULES)	345
APPENDIX 10 SECRETARIAT'S NOTE ON ADMINISTRATIVE ISSUES IN PROCEEDINGS UNDER THE 2012 ICC RULES OF ARBITRATION	355
APPENDIX 11 SECRETARIAT'S ICC AWARD CHECKLIST (1998 AND 2012 RULES)	357
APPENDIX 12 SECRETARIAT'S NOTE ON CORRECTION AND INTERPRETATION OF ARBITRAL AWARDS (1998 AND 2012 RULES)	361
APPENDIX 13 SECRETARIAT'S CHECKLIST ON CORRECTION AND INTERPRETATION OF	365

APPENDIX 14 EFFECTIVE MANAGEMENT OF ARBITRATION: A GUIDE FOR IN-HOUSE COUNSEL AND OTHER PARTY REPRESENTATIVES (2014)	369
APPENDIX 15 COMMISSION REPORT/SECOND EDITION – TECHNIQUES FOR CONTROLLING TIME AND COSTS IN ARBITRATION (2012)	401
APPENDIX 16 COMMISSION REPORT – ARBITRATION INVOLVING STATES AND STATE ENTITIES UNDER THE ICC RULES OF ARBITRATION (2012)	421
APPENDIX 17 COMMISSION REPORT – TECHNIQUES FOR MANAGING ELECTRONIC DOCUMENT PRODUCTION WHEN IT IS PERMITTED OR REQUIRED IN INTERNATIONAL ARBITRATION (2012)	433
APPENDIX 18 COMMISSION REPORT – ISSUES FOR ARBITRATORS TO CONSIDER REGARDING EXPERTISE (2010)	471
APPENDIX 19 ISSUES FOR EXPERTS ACTING UNDER THE ICC RULES FOR EXPERTISE OR THE ICC RULES OF ARBITRATION (2009)	493
APPENDIX 20 RULES OF ICC AS APPOINTING AUTHORITY IN UNCITRAL OR OTHER AD HOC ARBITRATION PROCEEDINGS (1 JANUARY 2004)	515
APPENDIX 21 ICC RULES FOR A PRE-ARBITRAL REFEREE PROCEDURE (1 JANUARY 1990) 519
APPENDIX 22 PRE-ARBITRAL REFEREE'S STATEMENT OF ACCEPTANCE, AVAILABILITY AND INDEPENDENCE	525
APPENDIX 23 ICC MEDIATION RULES (1 JANUARY 2014)	527
APPENDIX 24 ICC MEDIATION CLAUSES (2014)	535
APPENDIX 25 ICC EXPERT RULES (1 FEBRUARY 2015)	539
APPENDIX 26 ICC EXPERT CLAUSES (2015)	559

APPENDIX 27 ICC DOCDEX RULES (1 MAY 2015)	563
APPENDIX 28 ICC DISPUTE BOARD RULES (1 OCTOBER 2015)	571
APPENDIX 29 ICC DISPUTE BOARD CLAUSES (2015)	587
INDEX AND TABLE OF FIGURES A. Alphabetical Index	591 591
B. Table of Figures	606