Table of Cases and Other Practice	XXVII
Table of Instruments	lix
List of Abbreviations	lxxxiii
Chapter 1: Introduction	
1. Introduction	1
2. The International Arbitral Process and the Work of UNCITRAL	
3. The Development of the UNCITRAL Rules of Procedure	3
A. The Drafting of the 1976 Rules	2 3 3 4
B. The UNCITRAL Rules and the Iran–US Claims Tribunal	
(1) The Origins and Structure of the Iran–US Claims Tribunal	4 5
(2) The Tribunal's Use of the UNCITRAL Arbitration Rules	5
C. The UNCITRAL Rules and the 1985 UNCITRAL Model Law	6
D. Adoption of the UNCITRAL Rules in other Public and Private Institutions E. Investor–State Arbitration and the UNCITRAL Rules	6 7
F. The 2010 UNCITRAL Rules	8
G. The Work of UNCITRAL on Rules for Transparency in Investor–State	
Arbitration	9
4. How to Use this Commentary	10
A. Navigating the Text	- 10
B. The Interplay between the 1976 Rules and 2010 Rules in Application and	10
Interpretation C. The Extracts	10
D. Further Research	11
5. Conclusion	11
PART I: FUNDAMENTAL PRINCIPLES AND THE	
LEGAL FRAMEWORK WITHIN WHICH THE ARBITRAL	
TRIBUNAL OPERATES	
Introduction	13
introduction	
Chapter 2: Scope of Application, General Provisions,	
and Place of Arbitration	
1. Introduction	16
2. Scope of Application—Article 1	16
A. Text of the 2010 UNCITRAL Rule	16
B. Commentary	17
(1) General comments	17
(2) Scope of application (3) No variety a requirement for agreement to arbitration	18 18
(3) No writing requirement for agreement to arbitration (4) Party autonomy and modification of the Rules	19
(5) Presumptive scope of application	20
I I I I I I I I I I I I I I I I I I I	

		(6)	Future transparency rules for investor-state arbitration Model arbitration clause	23 24
		(7)		
	0	(8)	Comparison to the 1976 UNCITRAL Rules	24
	C.		racts from the Practice of Investment and other Tribunals	26
		(1)		26
0			Article 1(2) (1976 Rules)—non-derogation from mandatory law	28
3.			al Provisions—Article 17	29
			t of the 2010 UNCITRAL Rule	29
	В.	Cor	mmentary	30
		(1)	Basic principles—Article 17(1)	30
			(a) Arbitral autonomy and its limits	30
			(b) Confidentiality in UNCITRAL arbitration	36
			(c) Non-disputing party (amicus) participation in UNCITRAL arbitration	39
			(d) The nature of the proceedings before the Iran-US Claims Tribunal	41
			(e) Concluding comments	45
		(2)	Provisional timetable and modification of time periods—Article 17(2)	46
			(a) Provisional timetable	46
			(b) Modifications of time periods	47
			(c) Issues of general application	49
		(3)	Right to a hearing—Article 17(3)	49
			(a) Scope of hearings	49
			(b) Timing of hearing requests	51
			(c) Preliminary meetings	52
		(4)	Communication of documents—Article 17(4)	53
		(5)	Joinder of third persons—Article 17(5)	54
		(6)	Consolidation of claims	57
		(7)	Comparison to the 1976 UNCITRAL Rules	58
	C.		racts from the Practice of Investment and other Tribunals	59
	0.	(1)		59
		(2)	Article 15(1) (1976 Rules)—amicus submissions	65
	D		racts from the Practice of the Iran–US Claims Tribunal	69
	υ.	(1)	General and Tribunal Rules (1983), Article 15(1)	69
		(2)	Tribunal Rules (1983), Article 15(1)	74
4	Dla		f Arbitration—Article 18	
7.			of the 2010 UNCITRAL Rule	77 77
				77
	Б.		Maning of "place of askingering"	78
		(1)	Meaning of "place of arbitration"	78
		(2)	Selection of the place of arbitration—Article 18(1)	80
			(a) Considerations to be taken into account	80
			(1) Nature and suitability of the local law	81
			(2) Enforceability of the award	85
			(3) Neutrality	87
			(4) Practical considerations	89
			(b) Decision on place of arbitration not procedural: consultation	0.1
		(2)	with the parties	91
		(3)		92
		(4)	The location of tribunal deliberations and meetings "for any other	
		100	purpose, including hearings"—Article 18(2)	93
		(5)	Comparison to the 1976 UNCITRAL Rules	95
			acts from the Practice of Investment Tribunals	96
	D.	Extr	acts from the Practice of the Iran–US Claims Tribunal	109

Chaj	pter 3:	Applicable Law, Amiable Compositeur	
1.	Introd	uction	111
2.	Applic	able Law—Article 35	112
	A. Tex	t of the 2010 UNCITRAL Rule	112
	B. Con	nmentary	112
	(1)	The primary rule—Article 35(1)	112
		(a) The principle of party autonomy and its application	112
		(b) Choice of applicable law where not designated by the parties	118
	(2)		119
		The significance of the contract and of trade usages—Article 35(3)	121
		Comparison to the 1976 UNCITRAL Rules	123
	(5)	A note on the Iran–US Claims Tribunal	128
		racts from the Practice of Investment Tribunals	129
		racts from the Practice of the Iran–US Claims Tribunal	131
	(1)	Tribunal Rules (1983), Article 33(1)	131
		Tribunal Rules (1983), Article 33(2)	140
		Tribunal Rules (1983), Article 33(3)	140 142
	(4)	Other practice of the Iran–US Claims Tribunal	142
DAD	TILA	RBITRAL PROCEDURES TO CONTROL	
THI	E SELE	ECTION AND CONDUCT OF ARBITRATORS	
In	troduct	ion	145
Char	nter /1.	The Number and Selection of Arbitrators	
FR			. (0
	Introd		148
2.		ating and Appointing Authorities—Article 6	148
		t of the 2010 UNCITRAL Rule	148
	100000	nmentary	149
	(1)	Opportunities for agreement on an appointing authority—Article 6(1)	149
	(2)	The role of the designating authority—Article 6(2) and (4) Suspension of time periods in the absence of an appointing	151
	(3)	authority—Article 6(3)	153
	(4)	The role of the appointing authority—Article 6(5)–(7)	153
		racts from the Practice of the Iran–US Claims Tribunal	155
3.		umber of Arbitrators—Article 7	157
		t of the 2010 UNCITRAL Rule	157
		mmentary	157
	(1)	The default rule on the number of arbitrators—Article 7(1)	157
		The exception to the default rule of three arbitrators—Article 7(2)	160
		A number of arbitrators other than one or three	161
4.	10	ntment of the Sole Arbitrator—Article 8	162
		t of the 2010 UNCITRAL Rule	162
		mmentary	163
5.		ntment of a Three-Person Panel—Article 9	164
		t of the 2010 UNCITRAL Rule	164
	B. Cor	nmentary	164
	(1)	The right of each party to appoint an arbitrator	164
	(2)	The appointment of the presiding arbitrator	165
	C Evr	racts from the Practice of Investment Tribunals	166

		of the 2010 UNCITRAL Rule	169 169
		nmentary	169
υ.		The requirements for appointment—Article 10(1) and (2)	169
	(2)	The power of the appointing authority to appoint and	10)
	(2)	reappoint—Article 10(3)	170
7 Co	mna	rison to the 1976 UNCITRAL Rules	172
7. 00	nipa	mison to the 1970 of vol 11th Rules	1/2
Chapter	5:	The Challenge of Arbitrators	
1. Int	rodi	action	177
		Overview of Challenges before Investment and other Tribunals	178
	(1)	Challenge decision of April 15, 1993	178
	(2)	Challenge decision of January 11, 1995	179
	(3)	Challenge decision by a Division of the LCIA—October–December 2005	179
	(4)	The US Government's challenge of Professor James Anaya in the	1//
	(1)	Grand River arbitration—2007	180
	(5)	The Argentine Government's challenge of Mr Judd L Kessler in the	100
	(2)	National Grid arbitration—2007	180
	(6)	The Argentine Government's challenges of Professor Gabrielle	100
	(0)	Kaufmann-Kohler in the AWG Group arbitration—2007–2008	181
		(a) The Argentine Government's first challenge—2007	181
		(b) The Argentine Government's second challenge—2008	181
	(7)		101
	(/)	The Argentine Government's challenge of Mr Stanimir Alexandrov in the ICS arbitration—2009	182
	(8)		102
	(0)	The claimant's challenge to Mr J Christopher Thomas in the Gallo arbitration—2009	100
D	1.0		182
D.		Overview of the Challenges before the Iran–US Claims Tribunal	183
	(1)	The Iranian Government challenge of Nils Mangård—1982	183
	(2)	The US Government challenge of Judges Kashani and Shafeiei—1984	184
	(3)	The first Iranian Government challenge of Judge Briner in Case No 55,	10/
	(4)	Amoco Iran and Islamic Republic of Iran—1988	184
	(4)	The second Iranian Government challenge of Judge Briner—1989	184
	(5)	The third Iranian Government challenge of Judge Briner—1989	185
	(6)	The US claimant's challenge of Judge Noori in Case No 248, Carlson and	10/
	(7)	Melli Industrial Group—1990	186
	(7)	The Iranian Government challenge of Judge Arangio-Ruiz—1991	186
	(8)	The Iranian Government challenges of Judge Krzysztof	100
	(0)	Skubiszewski—1999	186
	(9)	The US Government challenge of Judge Bengt Broms—2001	187
	(10)	The US claimant's challenge of Judge Bengt Broms in connection with	
		Case No 485, Frederica Lincoln Riahi—2004	187
	(11)	The US Government challenge of Judges Assadollah Noori, Koorosh	
	45.48	Ameli, and Mohsen Aghahosseini—2005–2006	188
	(12)	The Iranian Government challenge of Judge Krzystof Skubiszewski	
		and the US Government challenge of Judge Hamid Reza Oloumi	
	123111	Yazdi —2007	188
	(13)	The Iranian Government challenge of Judge Krzystof Skubiszewski and	
		Judge Gaetano Arangio-Ruiz—2009	189
		The US Government challenge of Judge Seyed Jamal Seifi—2010	190
		The Iranian Government challenge of Judge Charles Brower—2010	190
C.	The	Exclusivity of the UNCITRAL Challenge Procedure	191

	Table of Contents	xiii
2	The Duty to Disclose—Article 11	194
۷.	A. Text of the 2010 UNCITRAL Rule	194
	B. Commentary	195
	(1) The duty to disclose	195
	(2) Model statements of independence	198
	- I TICOL TIL	200
	(3) Disclosure guidelines of the Iran–US Claims Iribunal C. Extracts from the Practice of Investment Tribunals	201
	D. Extracts from the Practice of the Iran–US Claims Tribunal	202
	(1) General	202
	(2) Disclosure by the US Arbitrators	205
2	The Grounds for Challenge—Article 12	207
5.	A. Text of the 2010 UNCITRAL Rule	207
		208
	B. Commentary (1) Challenge on the ground of justifiable doubts as to importiality or	200
	(1) Challenge on the ground of justifiable doubts as to impartiality or	208
	independence—general remarks on Article 12(1)	208
	(a) The standard for impartiality and independence is objective	200
	(b) The same standard applies to party-appointed and non-party appointed	209
	arbitrators	211
	(c) Criteria regarding and examples of justifiable doubts	211
	(2) Challenge on the ground of justifiable doubts as to impartiality or	212
	macpendence	213
	6 1 7 1	
	1 / 1	213
		215
		216
		217
	(4) An arbitrator's previous employment by the parent corporation	217
	1 /	217
	(5) An arbitrator's representation in another forum that is adverse	218
		210
	(6) An arbitrator's previous advocacy on behalf of a country formerly	218
	017	210
	(7) An arbitrator's representation of a third party with a right to	219
	1 0	
		220 222
	(9) An arbitrator's statement regarding a party or the dispute	
	(10) An arbitrator's decision-making	222
		223
	1 '	225
	(c) The standard of independence and impartiality does not vary	225
	0 0 1	225
	(d) A failure to disclose under Article 11 may give rise to, but does	
	not per se establish, justifiable doubts as to impartiality or	226
		226
	(e) Are there any limitations on the circumstances which may be used as	220
	the basis for justifiable doubts?	228
	(3) Article 12(1) as providing the exclusive grounds for challenge	228
	, 1 , 0	230
		231
		235
		235
	(2) Tribunal Rules (1983), Article 10(2)	240

Challenge—Article 13 A. Text of the 2010 UNCITRAL Rule B. Commentary (1) When notice of challenge must be made—Article 13(1) (a) General comments on the travaux préparatoires (b) When circumstances "became known" to the challenging (1) Burden of proof (2) Actual prior knowledge (2) To whom should notice be sent; what form should notice take of the notice; who may send notice—Article 13(2) (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrated does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Gedesignating an appointing authority? (3) What procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in de	241 241 241 241 241 243 243
 B. Commentary When notice of challenge must be made—Article 13(1) (a) General comments on the travaux préparatoires (b) When circumstances "became known" to the challenging (1) Burden of proof Actual prior knowledge To whom should notice be sent; what form should notice take of the notice; who may send notice—Article 13(2) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) Timeline for seeking a decision on a challenge—Article 13(4) Extracts from the Practice of Investment Tribunals Extracts from the Practice of the Iran—US Claims Tribunal Tribunal Rules (1983), Article 11(1) Tribunal Rules (1983), Article 11(2) Tribunal Rules (1983), Article 11(3) The Resolution of the Challenge Text of the 2010 UNCITRAL Rule Commentary Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitration does not withdraw? When may a party seek the assistance of the PCA Secretary-Gedesignating an appointing authority? What procedures the appointing authority may follow in decident. 	241 241 241 241 party 243
 (1) When notice of challenge must be made—Article 13(1) (a) General comments on the travaux préparatoires (b) When circumstances "became known" to the challenging (1) Burden of proof	241 241 party 243
 (a) General comments on the <i>travaux préparatoires</i> (b) When circumstances "became known" to the challenging (1) Burden of proof (2) Actual prior knowledge (2) To whom should notice be sent; what form should notice take of the notice; who may send notice—Article 13(2) (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitration does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Gedesignating an appointing authority? (3) What procedures the appointing authority may follow in decident. 	241 party 243
 (a) General comments on the <i>travaux préparatoires</i> (b) When circumstances "became known" to the challenging (1) Burden of proof (2) Actual prior knowledge (2) To whom should notice be sent; what form should notice take of the notice; who may send notice—Article 13(2) (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitration does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Gedesignating an appointing authority? (3) What procedures the appointing authority may follow in decident. 	party 243
 (b) When circumstances "became known" to the challenging (1) Burden of proof (2) Actual prior knowledge (2) To whom should notice be sent; what form should notice take of the notice; who may send notice—Article 13(2) (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Gedesignating an appointing authority? (3) What procedures the appointing authority may follow in decided 	1 ,
 (1) Burden of proof (2) Actual prior knowledge (2) To whom should notice be sent; what form should notice take of the notice; who may send notice—Article 13(2) (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-General designating an appointing authority? (3) What procedures the appointing authority may follow in decident. 	1 ,
 (2) Actual prior knowledge (2) To whom should notice be sent; what form should notice take of the notice; who may send notice—Article 13(2) (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Gedesignating an appointing authority? (3) What procedures the appointing authority may follow in decident 	4 1
 (2) To whom should notice be sent; what form should notice take of the notice; who may send notice—Article 13(2) (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Gedesignating an appointing authority? (3) What procedures the appointing authority may follow in decident 	245
of the notice; who may send notice—Article 13(2) (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Geodesignating an appointing authority? (3) What procedures the appointing authority may follow in decision of the challenge of the challenge of the challenge of the PCA Secretary-Geodesignating an appointing authority?	
 (3) Procedure if challenge is accepted by all parties or challenged a withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Geodesignating an appointing authority? (3) What procedures the appointing authority may follow in decision 	248
withdraws—Article 13(3) (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Goodesignating an appointing authority? (3) What procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the appointing authority may follow in decision of the procedures the proc	
 (4) Timeline for seeking a decision on a challenge—Article 13(4) C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran—US Claims Tribunal (1) Tribunal Rules (1983), Article 11(1) (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Geodesignating an appointing authority? (3) What procedures the appointing authority may follow in decision 	253
 C. Extracts from the Practice of Investment Tribunals D. Extracts from the Practice of the Iran–US Claims Tribunal Tribunal Rules (1983), Article 11(1) Tribunal Rules (1983), Article 11(2) Tribunal Rules (1983), Article 11(3) The Resolution of the Challenge Text of the 2010 UNCITRAL Rule Commentary Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? When may a party seek the assistance of the PCA Secretary-General designating an appointing authority? What procedures the appointing authority may follow in decident. 	
 D. Extracts from the Practice of the Iran–US Claims Tribunal Tribunal Rules (1983), Article 11(1) Tribunal Rules (1983), Article 11(2) Tribunal Rules (1983), Article 11(3) The Resolution of the Challenge Text of the 2010 UNCITRAL Rule Commentary Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? When may a party seek the assistance of the PCA Secretary-Geodesignating an appointing authority? What procedures the appointing authority may follow in decident 	
 Tribunal Rules (1983), Article 11(1) Tribunal Rules (1983), Article 11(2) Tribunal Rules (1983), Article 11(3) The Resolution of the Challenge Text of the 2010 UNCITRAL Rule Commentary Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? When may a party seek the assistance of the PCA Secretary-Godesignating an appointing authority? What procedures the appointing authority may follow in decident. 	256
 (2) Tribunal Rules (1983), Article 11(2) (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Good designating an appointing authority? (3) What procedures the appointing authority may follow in decident 	257
 (3) Tribunal Rules (1983), Article 11(3) 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Godesignating an appointing authority? (3) What procedures the appointing authority may follow in decident 	257
 5. The Resolution of the Challenge A. Text of the 2010 UNCITRAL Rule B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Godesignating an appointing authority? (3) What procedures the appointing authority may follow in decident. 	263
 A. Text of the 2010 UNCITRAL Rule B. Commentary Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? When may a party seek the assistance of the PCA Secretary-Geodesignating an appointing authority? What procedures the appointing authority may follow in decident. 	267
 B. Commentary (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Godesignating an appointing authority? (3) What procedures the appointing authority may follow in decident 	268
 (1) Which authority shall make the decision on the challenge if the party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Godesignating an appointing authority? (3) What procedures the appointing authority may follow in decident 	268
party does not agree to the challenge or the challenged arbitrate does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Godesignating an appointing authority? (3) What procedures the appointing authority may follow in decident.	268
does not withdraw? (2) When may a party seek the assistance of the PCA Secretary-Godesignating an appointing authority? (3) What procedures the appointing authority may follow in decidents.	ie other
(2) When may a party seek the assistance of the PCA Secretary-Go designating an appointing authority?(3) What procedures the appointing authority may follow in decident	
designating an appointing authority? (3) What procedures the appointing authority may follow in decident the appointing authority may follow autho	268
(3) What procedures the appointing authority may follow in deci-	eneral in
(3) What procedures the appointing authority may follow in deci-	270
	ding
the challenge	271
(4) Limitations on the powers of the appointing authority	272
C. Extracts from the Practice of Investment Tribunals	272
D. Extracts from the Practice of the Iran-US Claims Tribunal	273
(1) Tribunal Rules (1983), Article 12(1)	273
(2) Tribunal Rules (1983), Article 12(2)	274
6. Comparison to the 1976 UNCITRAL Rules	274
o. Comparison to the 1970 of verifical Rules	2/4
Chapter 6: Failure to Act, other Disruptions, and the Replacem	ant.
of an Arbitrator	iciit
of all Arbitrator	
1. Introduction	278
2. Failure to Act and other Disruptions—Article 12(3)	278
A. Text of the 2010 UNCITRAL Rule	278
B. Commentary	278
(1) Drafting history of the rule and general comments	278
(2) Iran—US Claims Tribunal practice with respect to an arbitrate	
failure to act	280
(3) Iran—US Claims Tribunal practice with respect to other disru	
(a) A note on substitute arbitrators	282
(b) A note on truncated proceedings	283
(1) The absence of Mr Sani, Fall 1983	
	10/
(2) The absence of Judge Mostafavi, Spring 1988 (3) The practice of the Tribunal regarding absence from the	284
(3) The practice of the Tribunal regarding absence from the	284

XV

331

(4) The practice of the Tribunal regarding the rendering of awards 286 despite a refusal to sign (5) The practice of the Tribunal regarding the rendering of awards on 286 agreed terms despite no participation by an arbitrator (6) The practice of the Tribunal regarding the holding of pre-hearing 286 conference despite the absence of an arbitrator 286 (c) A note on resignation of an arbitrator (4) Comparison to the 1976 UNCITRAL Rules 289 C. Extracts from the Practice of Investment Tribunals 289 D. Extracts from the Practice of the Iran-US Claims Tribunal 290 290 (1) Tribunal Rules (1983), Article 13(1)—Resignation (2) Tribunal Rules (1983), Article 13(2)—Failure to act 291 (3) Tribunal Rules (1983), Article 13(3) 302 302 (4) Tribunal Rules (1983), Article 13(4) 302 (5) Tribunal Rules (1983), Article 13(5) 305 3. Replacement of an Arbitrator—Article 14 A. Text of the 2010 UNCITRAL Rule 305 305 B. Commentary 305 Rationale for the revised approach: the problem of spurious resignations Procedures when an arbitrator "has to be replaced"—Article 14(1) 307 (3) Replacement of an arbitrator in "exceptional circumstances"—Article 308 308 (a) Depriving a party of its right to appoint 311 (b) Procedural requirements (c) Exclusivity of the discretion of the appointing authority 312 (d) Agreement between the parties 313 (4) Comparison to the 1976 UNCITRAL Rules 314 315 (a) The express power to proceed (b) The inherent power to proceed 317 4. Repetition of Hearings in the Event of Replacement of an 318 Arbitrator—Article 15 318 A. Text of the 2010 UNCITRAL Rule 318 B. Commentary 318 (1) General comments 320 (2) Comparison to the 1976 UNCITRAL Rules C. Extracts from the Practice of the Iran-US Claims Tribunal 322 Chapter 7: Exclusion of Liability for Arbitrators and other Participants 1. Introduction 325 325 2. Exclusion of Liability for Arbitrators and other Key Actors—Article 16 325 A. Text of the 2010 UNCITRAL Rule 326 B. Commentary 326 (1) General 330 (2) Practice of the Iran-US Claims Tribunal (3) Comparison to the 1976 UNCITRAL Rules 330 330 C. Extracts from the Practice of Investment Tribunals

D. Extracts from the Practice of the Iran-US Claims Tribunal

Chapter 8: The Institution of the Appointing Authority	
1. Evolution of the UNCITRAL Approach?	337
2. The Appointing Authority and Composition Generally	338
3. Lessons from the Iran–US Claims Tribunal for the Office of the Appointing	2/1
Authority	340
PART III: THE INITIATION OF THE ARBITRATION	
AND THE IDENTIFICATION AND CLARIFICATION	
OF THE ISSUES PRESENTED	
Introduction	345
Chapter 9: Representation and Assistance	
1. Introduction	347
2. Representation and Assistance—Article 5	347
A. Text of the 2010 UNCITRAL Rule	347
B. Commentary	348
 The right to representation and assistance by persons chosen 	348
(2) Communicating the identity and role of representatives and advisers	351
(3) Proof of a representative's authority	352
(4) Practice of the Iran–US Claims Tribunal	353
(5) Comparison to the 1976 UNCITRAL Rules	354
C. Extracts from the Practice of Investment Tribunals	355
D. Extracts from the Practice of the Iran–US Claims Tribunal	350
Chapter 10: The Notice Initiating Arbitration and the Response	
1. Introduction	359
2. The Notice Initiating Arbitration—Article 3	360
A. Text of the 2010 UNCITRAL Rule	360
B. Commentary	361
(1) The requirement to communicate a notice of arbitration—Article 3(1)	361
(2) The date of commencement of arbitration proceedings—Article 3(2)	362
(3) Mandatory information provided in the notice of arbitration—Article	
3(3)	363
(4) Additional information provided in the notice of arbitration—Article	26
3(4)	364
(5) Insufficiency of the notice of arbitration—Article 3(5)	364
 (6) International investment agreements and the notice of arbitration (7) The notice of arbitration at the Iran–US Claims Tribunal 	365
(8) Comparison to the 1976 UNCITRAL Rules	366 368
C. Extracts from the Practice of Investment Tribunals	369
3. The Response to the Notice of Arbitration—Article 4	370
A. Text of the 2010 UNCITRAL Rule	370
B. Commentary	370
(1) The requirement to respond to the notice of arbitration—Article 4(1)	370
(2) Mandatory contents of the response to the notice of arbitration—Article	- 1
4(1)	372
(3) Optional contents of the response to the notice of arbitration—Article	
4(2)	373

		Table of Contents	xvii
	(4	Absence, lateness, or insufficiency of the response to the notice of	
	,	arbitration—Article 4(3)	373
	(5	Comparison to the 1976 UNCITRAL Rules	373
Chaj	pter 1	1: The Choice of Language	
1.	Intro	duction	375
2.	The C	Choice of Language—Article 19	376
	A. Te	xt of the 2010 UNCITRAL Rule	376
		ommentary C. L	376
	(1	1 1111 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	376 382
	(2)	1 ACCOMPANDA	384
	(3)	etracts from the Practice of Investment Tribunals	384
		tracts from the Practice of the Iran–US Claims Tribunal	385
	(1		385
	(2	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	387
Chap	pter 1	2: Notice and the Calculation of Periods of Time	
1	Intro	duction	393
		e and Calculation of Periods of Time—Article 2	394
2.		xt of the 2010 UNCITRAL Rule	394
	B. Co	ommentary	395
	(1)	What form notice may take—Article 2(1)	395
	(2)		397
		(a) A notice is "deemed to have been received"	397
		(b) Means of delivery, including by electronic communication	399 400
		(1) Electronic communications(c) Application of Article 2(1) of the 1976 UNCITRAL Rules by the	400
		Iran—US Claims Tribunal	401
	(3)		402
	(4)	No. 10 to 10	403
	C. Ex	tracts from the Practice of Investment Tribunals	404
	D. Ex	tracts from the Practice of the Iran–United States Claims Tribunal	404
	(1)		404
	(2)		405
	(3)		405 407
	(4)		407
Char	ator 1	2. Statements of Claim and Defense	
Chap	Her I	3: Statements of Claim and Defence	
		duction	409
2.		tatement of Claim—Article 20	410
		xt of the 2010 UNCITRAL Rule	410
		ommentary	411
	(1)		411 412
	(3)		414
	(4)		415
	(5)		416
		tracts from the Practice of Investment Tribunals	417

D. Extract	s from the Practice of the Iran–US Claims Tribunal	419
(1) Ti	ribunal Rules (1983), Article 18(1)	419
(2) Ti	ribunal Rules (1983), Article 18(2)	419
The States	ment of Defence—Article 21	421
A Text of	the 2010 UNCITRAL Rule	422
B Comm	entary	422
	abmission of the statement of defence	422
	ontents of the statement of defence	423
	abmission of counterclaims and claims for the purpose of set-off	424
	General issues	424
	The counterclaim or the claim for a set-off must be within the	121
0.00	jurisdiction of the arbitral tribunal	426
(4) Su	applementary provisions on counterclaims and claims for the purpose	120
	set-off	428
(5) C	omparison to the 1976 UNCITRAL Rules	429
	s from the Practice of Investment Tribunals	432
	s from the Practice of the Iran–US Claims Tribunal	434
	ibunal Rules (1983), Article 19(1)	434
200	ibunal Rules (1983), Article 19(2)	436
	ibunal Rules (1983), Article 19(3)	436
	ibunal Rules (1983), Article 19(4)	447
(1)	iodial (dies (1703), fittlete 17(4)	71/
Chapter 14: C	Objections to the Jurisdiction of the Arbitral Tribunal	
1. Introducti	on	449
Objection	s to Jurisdiction—Article 23	450
A. Text of	the 2010 UNCITRAL Rule	450
B. Comm	entary	450
(1) Th	ne power of the tribunal to determine its own jurisdiction—Article	0.400
23	S(1)	450
(2) O	bjections to the existence or validity of the contract of which the	
	bitration agreement is a part and the doctrine of separability—Article	
23	5(1)	453
(3) W	hen objections should be raised—Article 23(2)	455
(4) W	hen objections should be ruled upon—Article 23(3)	457
	omparison to the 1976 UNCITRAL Rules	458
	s from the Practice of Investment Tribunals	459
	s from the Practice of the Iran–US Claims Tribunal	463
	ibunal Rules (1983), Article 21(1)	463
, ,	ibunal Rules (1983), Article 21(2)	463
	ibunal Rules (1983), Article 21(3)	464
	ibunal Rules (1983), Article 21(4)	464
		101
Chapter 15: A	mendments to the Claim or Defence	
1. Introducti	on	467
	ents to the Claim or Defence—Article 22	467
	the 2010 UNCITRAL Rule	467
B. Commo		467
(1) Ge	· ·	
		468
	the amendment must not fall outside the jurisdiction of the arbitral	1.00
tri	bunal	469

		T. 11 . 0.0	
		Table of Contents	xix
	(3)	Grounds for rejecting an amendment: delay, prejudice or other	
	(3)	circumstances	471
	(4)	Procedural questions	474
	(5)	Comparison to the 1976 UNCITRAL Rules	475
	C. Extr	acts from the Practice of Investment Tribunals	475
	D. Extr	acts from the Practice of the Iran–US Claims Tribunal	479
Chaj	oter 16:	Further Written Statements and Time Limits on Submission	on
1	Introdu	action	491
2.	Further	Written Statements—Article 24	491
	A. Text	of the 2010 UNCITRAL Rule	491
		nmentary	492
	(1)	General comments	492
	(2)	Comparison to the 1976 UNCITRAL Rules	496
		acts from the Practice of Investment Tribunals	496
		acts from the Practice of the Iran–US Claims Tribunal	498
3.		imits on Submission—Article 25	505
	A. Text	of the 2010 UNCITRAL Rule	505
	B. Con	nmentary	505
	(1)	General comments	505
		Comparison to the 1976 UNCITRAL Rules	508
		acts from the Practice of Investment Tribunals	508
	D. Extr	acts from the Practice of the Iran–US Claims Tribunal	508
Chaj	pter 17:	Interim Measures	
1.	Introdu	action	513
		Measures—Article 26	514
		of the 2010 UNCITRAL Rule	514
	B. Con	nmentary	515
	(1)	The precondition of a request by a party—Article 26(1)	516
	(2)	Types of interim measures that may be granted—Article 26(2)	517
		(a) Maintain or restore the status quo	518
		(b) Prevent prejudice to the arbitral process itself	518
		(c) Preserve assets for possible satisfaction of award	519
		(d) Preserve evidence	519
	(3)	Conditions for the ordering of interim measures—Article 26(3)	520
		(a) A likely harm not adequately reparable by an award of damages	521
		(b) An appropriate balance of likely harms	522
		(c) A reasonable possibility of success on the merits	522
		(d) Further conditions imposed by the agreement of the parties	524
	(4)	Conditions relaxed for the preservation of evidence—Article 26(4)	524
	(5)	The form (award or order) in which interim measures are granted	524
	(6)	Tribunal's power to modify, suspend or terminate interim	-0-
	(=)	measures—Article 26(5)	525
	(7)	Security for the costs of interim measures—Article 26(6)	526
	(8)	Disclosure by any party of any material change—Article 26(7)	527
	(9)	Liability for costs and damages—Article 26(8)	528
	(10)	Relations between the arbitral tribunal and municipal courts in	520
	(11)	issuing interim measures—Article 26(9)	529
		Issuance of preliminary orders	530
	(12)	Comparison to the 1976 UNCITRAL Rules	532

C. Extracts from the Practice of Investment Tribunals	522
D. Extracts from the Practice of the Iran–US Claims Tribunal	533
	543
(1) Tribunal Rules (1983), Article 26(1)	543
(2) Tribunal Rules (1983), Article 26(2)	550
(3) Tribunal Rules (1983), Article 26(3)	551
DADT IV. THE DECENTATION OF THE CACE	
PART IV: THE PRESENTATION OF THE CASE:	
EVIDENCE AND HEARINGS	
Introduction	553
introduction)))
Chapter 18: Evidence	
-	
1. Introduction	555
2. Evidence—Article 27	557
A. Text of the 2010 UNCITRAL Rule	557
B. Commentary	557
(1) Burden of proof—Article 27(1)	557
(2) Definition of "witnesses"—Article 27(2)	561
(a) General comments	561
(b) Practice of the Iran–US Claims Tribunal	563
(3) Written witness statements—Article 27(2)	564
(4) Production of documents—Article 27(3)	565
(a) General comments	565
(b) Production of documents at the request of a party	567
(c) "Enforcement" of production orders	570
(5) Admissibility, relevance, materiality, and weight of the	
evidence—Article 27(4)	571
(6) Comparison to the 1976 UNCITRAL Rules	574
C. Extracts from the Practice of Investment Tribunals	576
(1) Article 27(1) (1976 Rules)—Burden of proof	576
(2) Article 27(2) (1976 Rules)—Definition of "witnesses"	577
(3) Article 27(2) (1976 Rules)—Written witness statements	577
(4) Article 27(3) (1976 Rules)—Production of documents	577
(5) Article 27(4) (1976 Rules)—Admissibility, relevance, materiali	ty,
and weight of the evidence	579
D. Extracts from the Practice of the Iran-US Claims Tribunal	580
(1) Tribunal Rules (1983), Article 24(1)—Burden of proof	580
(2) Tribunal Rules (1983), Article 24(2)—Summary of evidence	587
(3) Tribunal Rules (1983), Article 24(3)—Document production	588
(4) Tribunal Rules (1983), Article 25(5)—Written witness stateme	
(5) Tribunal Rules (1983), Article 25(6)—Admissibility, relevance,	
materiality, and weight of the evidence	594
Chapter 19: The Hearings	
1. Introduction	(01
	601
2. The Hearings—Article 28	602
A. Text of the 2010 UNCITRAL Rule	602
B. Commentary	602
(1) Notice of hearing—Article 28(1)	602
(2) The conduct of the hearing—Article 28(2)–(4)	604

		Table of Contents	xxi
		(a) The conditions for and manner of witness examination	604
		(1) Notice of hearing and witness testimony	605
		(2) Cross-examination	605
		(3) Declarations	606
		(b) Hearings normally held in camera	607
		(c) Retirement of witnesses	608
		(d) Examination without physical presence of witness	609
		(e) Translation of oral statements, record of the hearing	610
		TOTAL DISCUSSION OF THE PART O	611
	0	(3) Comparison to the 19/6 UNCITRAL Rules Extracts from the Practice of Investment Tribunals	613
	C.		613
		(-)	617
	D	(2) Hearings held in camera Extracts from the Practice of the Iran–US Claims Tribunal	617
	D.		617
			619
		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	623
		- 1 1 1 (1000) 1 11 05(/)	624
0	CI	(4) Tribunal Rules (1983), Article 25(4)	624
3.	CI	osure of the Hearing—Article 31	624
		Text of the 2010 UNCITRAL Rule	625
	В.	Commentary	
		(1) Closure of the hearing—Article 31(1)	625
		(2) Reopening of the hearing—Article 31(2)	626
		(3) Comparison to the 1976 UNCITRAL Rules	628
		Extracts from the Practice of Investment Tribunals	629
	D.	Extracts from the Practice of the Iran–US Claims Tribunal	629
		(1) Tribunal Rules (1983), Article 29(1)	629
		(2) Tribunal Rules (1983), Article 29(2)	630
haj	pte	r 20: Tribunal-Appointed Experts	
1.	In	troduction	635
2.	Tri	ibunal-Appointed Experts—Article 29	636
		Text of the 2010 UNCITRAL Rule	636
	B.	Commentary	637
		(1) General comments	637
		(2) Appointment by the tribunal and terms of reference—Article 29(1)–(2)	638
		(a) Appointment	638
		(b) Terms of reference	640
		(3) Objections to the qualifications or the impartiality and independence	
		of the tribunal-appointed expert—Article 29(2)	642
		(4) The provision of relevant information to the tribunal-appointed	
		expert—Article 29(3)	644
		(5) The tribunal-appointed expert's report—Article 29(4)	645
		(6) Expert hearings—Article 29(5)	646
		(7) Note on party-appointed "expert witnesses"	647
		(8) Comparison to the 1976 UNCITRAL Rules	648
	C.	Extracts from the Practice of Investment Tribunals	648
		Extracts from the Practice of the Iran–US Claims Tribunal	650
		(1) Tribunal Rules (1983), Article 27(1)—appointment and terms	0,0
		of reference	650
		(a) The Shahin Shaine Ebrahimi case	650
		(b) The Arco Exploration case	653
		(c) The Starrett Housing case	655

C

(d) The Richard D Harza case	656
(e) The Behring International case	660
(2) Tribunal Rules (1983), Article 27(2)—provision of relevant information	662
(3) Tribunal Rules (1983), Article 27(3)—expert report	663
(a) The Shahin Shaine Ebrahimi case	663
	664
(b) The Arco Exploration case	
(c) The Behring International case	665
(d) The Richard D Harza case	665
(e) The Starrett Housing case	665
(4) Tribunal Rules (1983), Article 27(4)—expert hearing	667
PART V: DEFAULT AND WAIVER	
Introduction	669
Chapter 21: Default	
1. Introduction	671
2. Default—Article 30	671
A. Text of the 2010 UNCITRAL Rule	671
B. Commentary	672
(1) General comments	672
(2) Failure to file early written submissions—Article 30(1)	675
(3) Failure to appear at a hearing—Article 30(2)	677
(4) Failure to produce documentary evidence—Article 30(3)	677
(5) Comparison to the 1976 UNCITRAL Rules	678
C. Extracts from the Practice of Investment Tribunals	679
D. Extracts from the Practice of the Iran-US Claims Tribunal	683
(1) General and Tribunal Rules (1983), Article 28	683
(2) Tribunal Rules (1983), Article 28(2)	685
(3) Tribunal Rules (1983), Article 28(3)	687
Chapter 22: Waiver	
1. Introduction	(01
2. Waiver—Article 32	691
	691
A. Text of the 2010 UNCITRAL Rule	691
B. Commentary	692
(1) General comments	692
(2) The level of knowledge required	693
(3) Comparison to the 1976 UNCITRAL Rules	695
C. Extracts from the Practice of Investment Tribunals	695
D. Extracts from the Practice of the Iran-US Claims Tribunal	696
PART VI: THE AWARD	
Introduction	697
	-51
Chapter 23: Deliberations and Decisions	
1. Introduction	699
2. Decisions—Article 33	700

			Table of Contents	XXIII
	٨	Tevi	t of the 2010 UNCITRAL Rule	700
			mmentary	700
	D.	(1)	Awards and other Decisions by Majority Vote—Article 33(1)	700
		(1)	(a) General comments	700
			(b) Majority decision-making by the Iran–US Claims Tribunal	704
			(1) The dynamics of deliberations	704
			(2) The practice of deliberating and drafting awards	705
		(2)	Decision-Making on Procedural Questions—Article 33(2)	706
		(2)	(a) The meaning of "questions of procedure"	709
			(b) Revision	710
		(3)	2	, 10
		(3)	Tribunal Rules	711
			(a) The scope of the rule of confidentiality	712
			(b) Enforcing the rule of confidentiality	715
			(1) Censure of written statements	715
			(2) Statements of disapproval by fellow arbitrators	716
			(3) Challenge proceedings	716
		(4)	A LANGET DIOVERNAL D. I.	716
	0		racts from the Practice of Investment and other Tribunals	717
			racts from the Practice of the Iran–US Claims Tribunal	719
	D.	(1)	Tribunal Rules (1983), Article 31(1)	719
		(2)	Tribunal Rules (1983), Article 31(2)	722
		(3)	Tribunal Rules (1983), Article 31, Note 2—Confidentiality of	,
		(3)	deliberations	723
				,
Char	ote	24	: Form and Effect	
				732
			uction	732
2.			and Effect—Article 34 t of the 2010 UNCITRAL Rule	732
				733
	D.		nmentary Discovering to make concrete awards Article 34(1)	733
		(1)	Discretion to make separate awards—Article 34(1)	133
		(2)	The award is "final and binding" and the parties must "carry out the award	738
			without delay"—Article 34(2)	738
			(a) General commentary on "final and binding"	738
			(1) "Final"	741
			(2) "Binding" (b) Weiger of recourse against the award applicable provision	742
		(2)	(b) Waiver of recourse against the award—optional provision	/42
		(3)	Written award and designation of the date and place of the award's	745
		(4)	making—Article 34(2) and (4) Obligation to sign and failure to sign the award. Article 34(4)	746
		(4)	Obligation to sign and failure to sign the award—Article 34(4)	746
			(a) General comments on the travaux préparatoires	740
			(b) Practical matters regarding the statement of reasons for the absence	749
		(5)	of an arbitrator's signature	750
		(5)	Statement of reasons for the award and dissenting opinions—Article 34(3)	
		1-1	(a) Statement of reasons for the	750
		1-1	(a) Statement of reasons for the award	750 752
			(b) Dissenting and separate opinions	752
		(6)	(b) Dissenting and separate opinions Publication of the award—Article 34(5)	752 755
		(6) (7)	(b) Dissenting and separate opinions Publication of the award—Article 34(5) Copies of the award to the parties—Article 34(6)	752 755 757
		(6)	(b) Dissenting and separate opinions Publication of the award—Article 34(5)	752 755

	C. Ext	racts from the Practice of Investment and other Tribunals	761
	(1)	Article 32(1) (1976 Rules)—Types of award	761
	(2)	Article 32(2) (1976 Rules)—Final and binding	762
	(3)	Article 32(2) and (4) (1976 Rules)—Date, place, and signature	763
	(4)	Article 32(4) (1976 Rules)—Failure to sign the award	764
	(5)	Article 32(7) (1976 Rules)—Filing and registration of an award	765
	D. Ext	racts from the Practice of the Iran–US Claims Tribunal	766
	(1)	Tribunal Rules (1983), Article 32(1)—Types of award	766
	(2)	Tribunal Rules (1983), Article 32(2)—Final and binding award	767
	(3)	Tribunal Rules (1983), Article 32(3) and (4)—Date, place, and signature	767
	(4)	Tribunal Rules (1983), Article 32(3)—Reasons for the award	768
	(5)	Tribunal Rules (1983), Article 32(4)—Failure to sign the award	769
	(-)	(a) Statements of reasons for failure to sign the award	769
		(b) Improper statements of reasons and post-award exchanges	773
	(6)	Tribunal Pulse (1983) Article 22(5) Publication of the armed	V2
	(0)	Tribunal Rules (1983), Article 32(5)—Publication of the award	776
Cha	pter 25	: Settlement and other Grounds for Termination	
1.	Introd	uction	781
		nent and other Termination—Article 36	781
2.		t of the 2010 UNCITRAL Rule	781
		nmentary	782
	(1)	Settlement—Article 36(1)	
	(1)	(a) Types of settlement agreement and the practice of awards on	782
		agreed terms	782
		(b) Discretion to record a settlement agreement	784
	(2)	(c) Pre-settlement negotiations Other grounds for termination April 26(2)	786
	(2)	Other grounds for termination—Article 36(2)	788
	(a)	Continuation of the arbitration is "unnecessary" or "impossible"	788
	(b)	The existence of "remaining matters"	790
	(3)	Technical requirements for awards on agreed terms—Article 36(3)	790
	(4)	Comparison to the 1976 UNCITRAL Rules	790
		racts from the Practice of Investment Tribunals	792
		racts from the Practice of the Iran–US Claims Tribunal	793
	(1)	Tribunal Rules (1983), Article 34(1)	793
	(2)	Tribunal Rules (1983), Article 34(2)	798
Cha	oter 26	Post-Award Proceedings	
-	Introdi		001
			801
2.		etation of the Award—Article 37	802
		of the 2010 UNCITRAL Rule	802
		nmentary	802
	(1)	General	802
		Comparison to the 1976 UNCITRAL Rules	806
		acts from the Practice of Investment Tribunals	806
		acts from the Practice of the Iran–US Claims Tribunal	808
3.		tion of the Award—Article 38	811
		of the 2010 UNCITRAL Rule	811
	B. Con	nmentary	811
	(1)	General	811
	(2)	Comparison to the 1976 UNCITRAL Rules	814
	C. Extr	acts from the Practice of Investment Tribunals	815

Table of Contents	XXV
D. Extracts from the Practice of the Iran–US Claims Tribunal	815
(1) Request for correction granted	815
(2) Request for correction denied	817
4. Additional Award—Article 39	821
A. Text of the 2010 UNCITRAL Rule	821
B. Commentary	821
(1) General	821
(2) Comparison to the 1976 UNCITRAL Rules	824
C. Extracts from the Practice of Investment Tribunals	825
D. Extracts from the Practice of the Iran–US Claims Tribunal	825
(1) Request for additional award granted	825
(2) Request for additional award denied	825
5. The Finality of Awards and the Inherent Power to Reconsider	827
A. Commentary	827
B. Extracts from the Practice of Investment Tribunals	831
C. Extracts from the Practice of the Iran–US Claims Tribunal	832
(1) Limited power of review	832
(2) Revision to address fraud or corruption	836
Chapter 27: The Costs of Arbitration	
1. Introduction	840
2. The Costs of Arbitration—Article 40	841
A. Text of the 2010 UNCITRAL Rule	841
B. Commentary	841
(1) The duty to fix the costs of arbitration	841
(2) Costs defined	843
(a) Subparagraph (a)	843
(b) Subparagraphs (b) and (c)	844
(c) Subparagraph (d)	844
(d) Subparagraph (e)	845
(e) Subparagraph (f)	846
(3) The costs of interpretation, correction and completion of an	010
award—Article 40(3)	847
(4) Note on the costs of the Iran–US Claims Tribunal	848
(5) Comparison to the 1976 UNCITRAL Rules	848
C. Extracts from the Practice of Investment and other Tribunals	849
3. Arbitrators' Fees—Article 41	852
A. Text of the 2010 UNCITRAL Rule	852
B. Commentary	853
(1) Regulation of the arbitrators' fees and expenses under the Rules—general	0)3
background, Article 41(1) and (2)	853
(2) Determining the fees and expenses of the arbitral tribunal and potential	0)3
review by a neutral arbiter—Article 41(3)–(6)	855
(a) The manner in which fees and expenses will be	0))
determined—Article 41(3) and (5)	856
(1) Transparency	857
(2) Neutral Mechanism	858
(3) Efficiency	859
(b) The computation of the arbitral tribunal's fees and	0))
expenses—Article 41(4)–(6)	860
(1) Transparency	860
(2) Neutral Mechanism	860
(3) Efficiency	861

(3) Comparison to the 197C. Extracts from the Practice of		862 863		
4. Apportionment of Costs—Article 42				
A. Text of the 2010 UNCITRA		865 865		
B. Commentary	L. Kuic	865		
(1) Apportioning and awar	ding costs	865		
(2) "The circumstances of		870		
		870		
(a) The degree of succe				
(b) The conduct of the	•	871		
(c) The nature of the pa		873		
	ispute resolution mechanism	874		
(3) Requirements for maki	ng a claim for costs	875		
(a) Documentation		875		
(b) Timing of requests	1 1	875		
(c) Proof of reasonable		876		
(4) Comparison to the 197		877		
C. Extracts from the Practice of		877		
(1) Article 40(1) and (2) (1		877		
	976 Rules)—"Circumstances of the case"	879		
(a) The success of the p		879		
(b) The conduct of the	parties	882		
(c) The nature of the di	spute resolution mechanism	887		
 D. Extracts from the Practice of 		891		
(1) Tribunal Rules (1983),	Article 40(1) and (2)—General	891		
(2) Tribunal Rules (1983),	Article 40(1) and (2)—"Circumstances of the case"	892		
(a) The success of the p	arties	892		
(b) The conduct of the	parties	894		
Deposit of Costs—Article 43		896		
A. Text of the 2010 UNCITRA	L Rule	896		
B. Commentary		897		
(1) The request for deposits	S	897		
(2) Consultation with the a		899		
(3) Failure to make request		899		
	ing and the return of unexpended deposits	900		
(5) Comparison to the 197		901		
C. Extracts from the Practice of		901		
D. Extracts from the Practice of		903		
		703		
Appendices				
Appendix 1—UNCITRAL Arbitrat	ion Rules (as revised in 2010)	907		
Appendix 2—UNCITRAL Arbitrat		925		
Appendix 3—A Tabular Compariso		121		
Arbitration Rules	if of the 1970–2010 ONCITRAL	030		
	Orangisia Adrian I Baran Ji	939		
Appendix 4—UNCITRAL Notes of		0/7		
(May 28–June 14, 199		967		
Appendix 5—The Tribunal Rules of	지방 이 마음이 있다면 하는 이 전환 시간을 하면 되었다. 전에 가게 하는 것이 되었다. 프랑아스 이 경험 기계	002		
May 3, 1983, as amen		983		
	Assist Arbitral Institutions and Other Interested Bodies			
	tion under the UNCITRAL Arbitration	100=		
Rules as revised in 201	U	1007		
Select Bibliography		1021		
Index		1033		
		1000		