

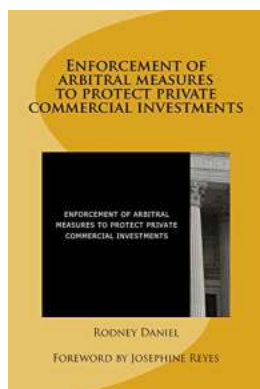
Enforcement Of Arbitral Measures To Protect Private Commercial Investments

Investments are crucial for economic growth and development. In an increasingly interconnected world, private commercial investments play a significant role in driving progress and fostering international trade. However, ensuring the protection and enforcement of these investments can be a complex task, especially when disputes arise.

The Importance of Private Commercial Investments

Private commercial investments facilitate the flow of capital, technology, and expertise across borders, ultimately creating jobs, stimulating innovation, and supporting local economies. These investments can take various forms, ranging from direct investment in foreign enterprises to the establishment of joint ventures.

A favorable investment climate and robust legal framework are essential to attract private commercial investments. Moreover, creating a stable and predictable environment fosters investor confidence and encourages long-term commitments.



Enforcement of arbitral measures to protect private commercial investments

by Danielle Mendes Thame Denny (Kindle Edition)

★★★★★ 5 out of 5

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Enhanced typesetting	: Enabled
Word Wise	: Enabled
Print length	: 67 pages
Screen Reader	: Supported



The Role of Arbitration in Investment Protection

Arbitration has emerged as an effective mechanism for resolving investment disputes. In contrast to traditional court litigation, arbitration provides parties with greater flexibility, neutrality, and efficiency.

Investment treaties and bilateral investment agreements often include provisions allowing investors to bring claims against host states through arbitration. These provisions enable investors to seek compensation for damages resulting from actions taken by the host state that violate the agreed-upon investment protections.

Arbitral measures, such as arbitration awards and decisions, are binding and enforceable. However, ensuring the enforcement of arbitral measures is critical for guaranteeing the effective protection of private commercial investments.

The Challenges of Enforcing Arbitral Measures

Enforcing arbitral measures can be challenging due to several factors. One of the main challenges arises from the potential resistance of the losing party to comply with the arbitral award or decision. In some cases, the losing party may refuse to pay the awarded compensation, intentionally delaying the process or seeking avenues to evade enforcement.

Furthermore, enforcing arbitral awards internationally can be a complex task since it involves navigating different legal systems and jurisdictions. The recognition and enforcement of arbitration awards often depend on the reciprocal enforcement agreements or conventions between countries.

In some instances, corruption, political interference, or inadequate legal framework in the enforcing jurisdiction can hinder the effective enforcement of arbitral measures. These challenges highlight the need for a robust and efficient enforcement framework to protect private commercial investments.

Improving the Enforcement of Arbitral Measures

Efforts to enhance the enforcement of arbitral measures are being made at both the international and national levels. Various initiatives and mechanisms aim to streamline the enforcement process and ensure a fair and efficient resolution of investment disputes.

At the international level, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards plays a crucial role in facilitating the enforcement of arbitration awards globally. The Convention provides a harmonized framework for recognizing and enforcing arbitral measures across 166 member countries.

Moreover, investment arbitration institutions, such as the International Centre for Settlement of Investment Disputes (ICSID), have been established to provide specialized arbitration services for investment disputes. These institutions offer procedural rules and enforceable decisions that promote timely and fair resolutions.

At the national level, countries are encouraged to adopt legislation that aligns with international standards on arbitration enforcement. Clear and comprehensive laws governing the enforcement of arbitral measures contribute to a favorable investment climate and enhance investor confidence.

The Benefits of Effective Enforcement

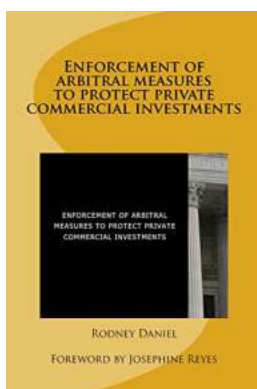
Effective enforcement of arbitral measures brings numerous benefits to private commercial investments. Firstly, it ensures the parties involved have access to a reliable dispute resolution mechanism. This promotes fair outcomes and protects the rights and interests of both investors and host states.

Secondly, a robust enforcement framework encourages the resolution of investment disputes through arbitration, as parties feel secure in the knowledge that the resulting measures will be effectively enforced. This, in turn, reduces the burden on overloaded court systems and promotes the use of alternative dispute resolution methods.

Finally, effective enforcement enhances the overall investment climate by sending a positive signal to potential investors. Countries with a reputation for enforcing arbitral measures are more likely to attract foreign direct investment and build stronger economic partnerships.

In

Enforcement of arbitral measures is crucial for protecting private commercial investments. While challenges exist, efforts are underway to improve the enforcement framework at both the international and national levels. Enhancing enforcement mechanisms not only safeguards investments but also promotes economic growth and fosters international cooperation.



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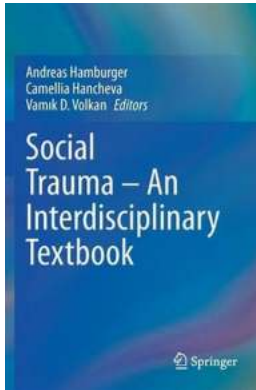


The concept of “governance” is not new. It is a very old one, old as human civilization. Governance means: « The process of decision-making and the process by which decisions are implemented (or not implemented) ».

Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance (...).

Companies must be in a strong position to manage security risk in these governance deficit zones and be present quite permanently. Authorities play an essential part in the political and judicial process while maintaining law and order to respect their obligations towards human rights. The traditional manner in which governmental measures are reviewed for compliance with international law in a private setting has come under increased scrutiny and criticism. International arbitration can provide the advantage of impartial and competent decision making (...). Another conflicting legal aspect is the challenge that opposes domestic law / customary law to international investment and arbitral jurisprudence.

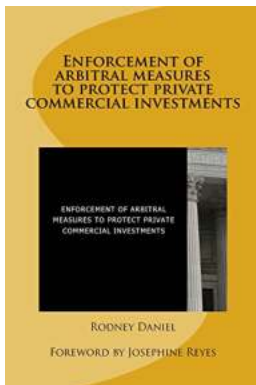
The author is a professional arbitrator, a commercial mediator and corporate business lawyer at AMC Law Associates in the United Kingdom.



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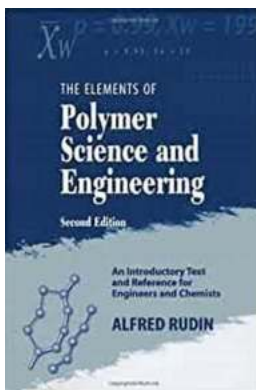
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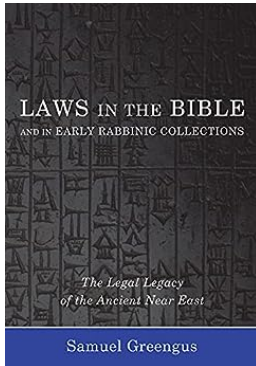
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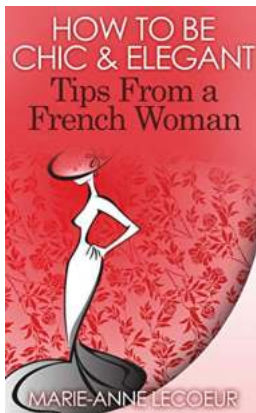
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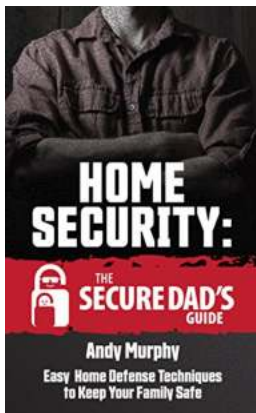
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