Questions About This Publication

For assistance with shipments, billing or other customer service matters, please call our Customer Services Department at:

1-631-350-2100

To obtain a copy of this book, call our Sales Department:

1-631-351-5430
Fax: 1-631-351-5712

Toll Free Order Line:

1-800-887-4064 (United States & Canada)

See our web page about this book:
www.arbitrationlaw.com
# TABLE OF CONTENTS

**Introduction**

*Ian Laird and Todd Weiler* ................................................................. vii

**About the Editors** ................................................................................. ix

**Authors** ........................................................................................................ ix

**Panelists** ....................................................................................................... x

## CHAPTER 1
The Evolving BIT

*José E. Alvarez* ......................................................................................... 1

## PART I
CONSENT TO ARBITRATION

### CHAPTER 2
“Consent” and the Jurisdiction of Investment Arbitrations: Are the Traditional Rules of Interpretation Still Relevant Today?

*Alexandre Vagenheim* ............................................................................. 37

### CHAPTER 3
Consent to Arbitration as a Unilateral Act of State: In Search for a Non-Conventional Approach towards Treaty Interpretation

*Yulia Andreeva* ......................................................................................... 59

### CHAPTER 4
“Consent” and the Jurisdiction of Investment Arbitrations, Are the Traditional Rules of Interpretation Still Relevant Today?

*Alexandre Vagenheim*  
*Yulia Andreeva*  
*Jean Kalicki*  
*Don Wallace*
PART II
THE MARGIN OF APPRECIATION DOCTRINE

CHAPTER 5
The Tractor in the Jungle: Why Investment Arbitration Tribunals Should Reject a Margin of Appreciation Doctrine
Kassi D. Tallent ..................................................................................................................................................111

CHAPTER 6
Bowing to the Queen: Rejecting the Margin of Appreciation Doctrine in International Investment Arbitration
Sarah Vasani .....................................................................................................................................................137

CHAPTER 7
Public Policy and the Interpretation of Substantive Standards and Protections: Is There a Place for Margins of Appreciation and Standards of Review in Applying International Investment Standards?
Sarah Vasani
Kassi Tallent
Stephen L. Drymer
Andrea Menaker
Felix Weinacht
Jonathan Sutcliffe

PANEL DISCUSSION........................................................................................................................................171
## PART III  
**MORAL DAMAGES**

### CHAPTER 8  
Moral Damages in Investment Arbitration and Public International Law  

*Jennifer Cabrera* ………………………………………………………………………………………………………..197

### CHAPTER 9  
Unexceptional Circumstances: Moral Damages in International Investment Law  

*Wade M. Coriell and Silvia M. Marchili* …………………………………………………………………213

### CHAPTER 10  
Should Moral Damages Be Compensable in Investment Arbitration?  

*Jennifer A. Cabrera  
Wade M. Coriell  
Alex Wilbraham  
Hamid Gharavi  
Borzu Sabahi  
Mark Kantor  
Timothy G. Nelson*  

PANEL DISCUSSION…………………………………………………………………………..233

## PART IV  
**LEGITIMACY AND CONSISTENCY**

### CHAPTER 11  
Legitimacy and Inconsistency: Is Investment Treaty Arbitration Broken and Can It be “Fixed”?  
*Is the ICSID Annulment Mechanism Broken and Could It Be Improved?*  

*Christina Cathey Schuetz* ………………………………………………………………………………………259