

Contents

| | |
|--|-------------|
| FOREWORD BY STEPHEN M. SCHWEBEL..... | ix |
| PREFACE | xi |
| ACKNOWLEDGMENTS | xv |
| GLOSSARY OF LATIN TERMS | xvii |
| | |
| CHAPTER 1: AN INTRODUCTION TO THE GENERAL PRINCIPLES OF LAW AND INTERNATIONAL DUE PROCESS | 1 |
| | |
| A. The Origin and Evolution of the General Principles of Law | 3 |
| 1. Identifying General Principles | 17 |
| a) Principles That Are General | 19 |
| b) Principles That Are Universal | 21 |
| c) Principles That Are International | 27 |
| 2. Typical Usage of General Principles | 29 |
| 3. Invocations of General Principles | 35 |
| a) Arbitral Tribunals | 36 |
| b) National Courts | 49 |
| B. The Origin and Evolution of International Due Process | 54 |
| 1. A Process Grounded in General Principles | 55 |
| 2. The Concept of International Due Process | 69 |
| 3. Specific Invocations of International Due Process | 74 |
| a) Arbitral Tribunals | 74 |
| b) National Courts | 79 |
| | |
| CHAPTER 2: MODERN APPLICATIONS OF THE GENERAL PRINCIPLES OF LAW | 87 |
| | |
| A. Good Faith in Contractual Relations | 88 |
| 1. Pacta Sunt Servanda: Agreements Must Be Honored | 89 |
| 2. Good Faith in Excusing Contractual Performance | 101 |
| 3. Good Faith as a Factor in Remedyng Nonperformance | 105 |
| B. Abuse of Rights and the Principle of Proportionality | 107 |
| 1. The General Prohibition on the Abuse of Rights | 108 |
| 2. The Principle of Proportionality | 114 |

CONTENTS

| | |
|--|------------|
| C. Estoppel | 119 |
| D. The Prohibition on Advantageous Wrongs and Unjust Enrichment | 130 |
| E. Corporate Separateness and Limited Liability | 140 |
| F. The Principles of Causation and Reparation | 143 |
| G. The Principles of Responsibility and Fault | 151 |
| CHAPTER 3: MODERN APPLICATIONS OF THE PRINCIPLES OF INTERNATIONAL DUE PROCESS | 157 |
| A. Notice and Jurisdiction | 158 |
| B. Judicial Impartiality and Judicial Independence | 165 |
| C. Procedural Equality and the Right to Be Heard | 176 |
| D. Condemnation of Fraud and Corruption | 183 |
| E. Evidence and Burdens of Proof | 190 |
| F. The Principle of Res Judicata | 197 |
| EPILOGUE | 203 |
| ANNEX OF CASES | 211 |
| NAME INDEX..... | 273 |
| SUBJECT INDEX | 275 |