Dispute Resolution in Asia. Assignment with short answers -answer part A Part A Ozco is a Sydney-incorporated company that invests A$3m in 2018 to established a joint venture company in Bangkok (owned in equal shares with a private Thai company), ThaiJVco, to produce and distribute home medical testing kits primarily for Thai, Australian and Japanese end-users. A month after the WHO declares the COVID-19 pandemic in March 2020, the Thai government orders ThaiJVco and some other producers to limit all kit supplies only to domestic users, declaring that this is essential for public health management of the pandemic. Ozco is unhappy as this reduces the joint venture’s profits considerably and some other producers (with closer connections to the government, such as State-Owned Enterprises) do not seem to be subjected to such restrictions. As set infections spread, in June 2020 the government announces that it plans to nationalise ThaiJVco to ramp up production of the kits and produce other medical supplies to address the pandemic. It offers to pay Ozco A$3m in compensation, but the latter voices discontent because by end-2019 an independent valuation of its investment was $5m. After fruitless negotiations, in August 2020 the government publically alleges that that Ozco bribed some officials to facilitate establishment of the JV, which Ozco completely denies. Question A.1 Advise OzCo about its best options and related procedural law and practice issues to resolve this dispute with the Thai government. In September 2020, ThaiJVco’s exclusive distributor of the kits in Japan, Jco incorporated in Osaka, notifies termination of the distributorship contract. As grounds for termination Jco points to the Thai corruption allegations, as well as non-delivery of the medical kits, resulting in Jco becoming close to bankruptcy. After ThaiJVco counter-argues force majeure for nondelivery, in October 2020 Jco adds as another ground for termination that some of its own buyers (consumers of the kits) are reporting that they contain serious defects causing personal injury and/or emotional distress. Jco also refuses to make payments for some kits delivered before the April 2020 export ban from Thailand, and threatens to seek the freezing of some ThaiJVco funds held in Japanese bank accounts. The written distributorship contract states that “all related disputes must be resolved by mediation administered in Kyoto, then if necessary subject to arbitration administered in Osaka”.2 Question A.2 Advise ThaiJVco about its best options and related procedural law and practice issues to resolve this dispute with Jco. In November 2020, some Thai consumers read news about the Japanese consumer complaints about defective kits sourced via Jco, and they start to complain to ThaiJVco about similar defects in some of their kits. A few file product liability claims in the Bangkok Civil Court. Thailand’s main NGO, the Foundation for Consumers, starts hearing about and publicising these claims. Discussion emerges across print and social media about a possible class action, and that news also reaches some smaller NGOs and other consumer groups in Japan. Question A.3 Advise ThaiJVco about the risks and issues around dispute resolution processes for such consumer complaints in both Thailand and Japan.