An Introduction to
International Arbitration

This concise yet comprehensive textbook introduces the reader to the law and practice of international arbitration. Arbitration is a complex field due to the variety of disciplines involved, and necessitates an approach that takes nothing for granted. Written by a renowned scholar and practitioner, this book explains the divergent issues of civil procedure, contracts, conflict of laws and international law amongst others in an accessible manner. Focusing mainly on international commercial arbitration, the book also features a distinct chapter on consumer and online arbitration and an equally comprehensive chapter on international investment arbitration.

Ilias Bantekas is Professor of International Law and Human Rights at Brunel University and a Senior Fellow at the Institute of Advanced Legal Studies, University of London. He has advised law firms, governments and international organisations in most areas of international law, including international arbitration. Alongside his academic career, he served as Head of International Law and Arbitration at a Legal500 law firm.
An Introduction to
International Arbitration

Ilias Bantekas
Aristotle, Rhetoric Book A, 13:9

Και το εις διαιτην μαλλον ή εις δικην βοουλεσθαι ιεναι. Ο γαρ
διαιτης το επιεικες ορα, ο δε δικαστης τον νομον. Και τοιου τε
ενεκα διαιτητης ευρεθη, διπως το επιεικες ισχυ.

[It is better] to prefer arbitration from judicial determination. Because, the arbitrator takes clemency [equity] into consideration, whereas the judge [solely] the law. And it is for this reason that an arbitrator was appointed; that is, in order to apply clemency [equity].

Dimosthenes, Against Meidias, 94

Λεγε δη και τον των διαιτητων νομον.

ΝΟΜΟΣ

Ειν δε τινες περι συμβολαιων ιδιων προς αλλαιους
αμφισβητος και βουλονται διαιτητην έλεσθαι οντανον, εξέστο
αυτως αφεσθαι δι αν βουλονται διαιτητην έλεσθαι. Επειδη
δελοντα κατα κοινν, μενετοσαν εν τοις υπο τοιου διαγνωσθει,
και μηκετι μεταφερετοσαν απο τοιου εφ έτερον δικαστηριον ταυτα
εγκληματα, άλλη εστω τα κριθεντα υπο του διαιτητου κουρια.

Read the law on arbitrators:

LAW

If some people argue over a private difference and wish to
appoint an arbitrator, they have the right to choose whomever they
desire. When, however, they reach mutual consent over the person
of the arbitrator they must respect his award and must not subse-
quently submit the same difference to a court. Rather, the arbitra-
tor's award is final.
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Preface

A general book on arbitration faces multiple dilemmas from the outset. What should be the balance between domestic and international arbitration (despite the international outlook of the book)? How does one discuss investment arbitration without making it look peripheral and how much emphasis should one place on substantive investment law? Should the book discuss consumer and online arbitration and to what degree? This consideration is pertinent, given that the literature generally treats them as distinct from commercial arbitration. Moreover, if the book ultimately bears the title of *International Arbitration*, isn’t there a danger that a considerable part of the audience will naturally wonder whether it covers inter-state arbitration as distinct, or in parallel to, private commercial arbitration? Unlike other legal disciplines whereby the law, although generally complicated is predicated on principles derived from that discipline, such as contract or tort, arbitration is hardly straightforward. Although it is largely a procedural law, no one can fully grasp it unless he or she possesses sufficient knowledge of public international law, the law of contract (certainly from a comparative perspective), comparative civil procedure, private international law (conflicts of law), commercial law and perhaps others, such as EU law. Given the positive perception of arbitration by the legal and business community in industrialised nations it is not surprising that many lawyers now specialise in discrete areas such as construction, intellectual property, maritime, public procurement and many others. All of these considerations make the task of a generalist textbook on international arbitration all that much harder.

The fundamental premise underlying this book has been to make its subject matter as accessible as possible to a wide and divergent audience which lacks expertise in one or more of the aforementioned legal disciplines. Although the author does not assume that his audience has prior familiarity with arbitration and the disciplines that feed it, there is no intention that the book should lack depth, or that its coverage should not
be as extensive as its competitors. What the book intentionally lacks is volume. The aim from the outset was to produce an enjoyable, easy-to-read, methodical, yet comprehensive and in-depth book, whose size is such that it may be read and digested in a relatively short time without leaving any gaps in one’s understanding. Naturally, some topics are dealt with in a more cursory manner as compared to the voluminous (and much more analytical) books on the subject, but it is the plethora of good books by experienced academics and practitioners that makes arbitration so enriching and diverse.

The author has benefited from discussions with many colleagues, but would especially like to thank the following people for reading and commenting on various draft chapters, or for extensive discussions, although naturally all responsibility lies with the author. These people are Pietro Ortolani, Tony Cole, Ikram Mahar, Ali Lazem and Richard Earle. Special thanks are also due to the publishing and editorial team at Cambridge University Press, particularly Marta Walkowiak who saw this project through from start to finish. My children Zoe and Stefanos are always a constant source of inspiration and I thank them for the countless times they disrupted my immersion into this work and made me realise a new world, which I had forgotten, through their eyes.

Athens and London, 1 January 2015
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