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SECOND EDITION

Gary B. Born •



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International Arbitration

For Clyde Raymond Born

Preface to Second Edition

This book aims to provide an introduction to international arbitration – including international commercial arbitration, international investment arbitration and state-to-state arbitration. The book focuses on the basic legal framework for international arbitration and the contemporary practice of international arbitration. Throughout, the emphasis is on introducing the key legal principles and customary practices in an accessible and straightforward manner, tailored to the needs of general practitioners, law students and others seeking an introduction to the international arbitral process.

Chapter I of the book provides an overview of the legal framework for international commercial arbitration, including the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (or “New York Convention”) and the United Nations Commission on International Trade Law’s Model Law on International Commercial Arbitration (“UNCITRAL Model Law”). Throughout the book, the New York Convention and the UNCITRAL Model Law are used as the basis for discussion, reflecting their central and increasing importance in the international commercial arbitration process. The book focuses in particular on international and comparative authorities and practices, rather than approaches from any single jurisdiction, aiming to introduce the emerging constitutional structure and practice of international arbitration rather than the domestic approach to arbitration in particular jurisdictions.

The body of the book is divided into three main parts, structured on the chronology of an international arbitration. Part I addresses international arbitration agreements, including their formation, enforcement and interpretation; Part II address international arbitral proceedings, examining how arbitrations are conducted in practice; and Part III addresses international arbitral awards, including their recognition and enforcement. All three Parts focus principally on international commercial arbitration, with comparisons where useful to international investment or state-to-state arbitration.

Finally, Chapter 18 of the book provides an overview of investment and state-to-state arbitrations, focusing in particular on distinctions between these forms of arbitration and international commercial arbitration. Among other things, the chapter introduces the International Centre for the Settlement of Investment Disputes (“ICSID”) and the network of international investment treaties (including bilateral investment treaties or “BITs”) which are central to the contemporary process of international investment arbitration.

This book is not meant to replace more detailed treatments of international arbitration in lengthier treatises and commentaries. These authorities are referred to in the notes accompanying Chapter 1 and the book’s three Parts. Readers should consult these materials for more detailed discussions of the subject.

As noted elsewhere, this book contains mistakes and over-simplifications, for which the author apologizes. Future editions will seek to correct these shortcomings and readers are encouraged to provide comments, criticisms and queries by email to gary.born@wilmerhale.com.

Gary B. Born
London, England
August 2015

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This book would never have been written without the able assistance and comments by colleagues, friends, students and competitors from around the world. I owe thanks in particular for Katrin Frach's exceptional secretarial and organizational talents, as well as the assistance of Marc Akio Lee, Thomas Snider and Elizabeth Song, all of whom provided invaluable contributions. Able assistance was also provided by Suzanne Spears, Marc Epstein, David Khachvani, Justin Li, Giulio Valz-Gen, Tiago Andreotti E Silva, Sasha Sharif, Constantin Klein, Marija Scekic, Mary Arutyunyan, Ema Gojkovic, Christina von Post, Julia Bassett and Kathleen Kundt. All mistakes are of course mine alone.

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Like international arbitration itself, this book is a work in progress. It addresses a complex field that is continuously evolving in response to changing conditions and needs. The book inevitably contains errors, omissions and confusions, which will require correction, clarification and further development in future editions, to keep pace with the field.

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