

1 Introduction

This Manual seeks to give an outline of five broad areas of international dispute settlement and resolution:

- supranational disputes;
- supranational dispute resolution bodies;
- international commercial dispute resolution;
- institutions and other bodies concerned with the resolution of disputes in the field of international commerce;
- online dispute resolution.

Within these areas, it looks at territorial and maritime delimitation disputes as well as at disputes in the fields of investment, international trade and intellectual property. It is divided into six parts:

Part I contains an overview of dispute avoidance and dispute resolution.

Part II deals with supranational dispute resolution.

Part III looks at supranational dispute resolution bodies.

Part IV considers international commercial dispute resolution and the bodies dealing with such disputes.

Part V moves into the electronic era and looks at online dispute resolution.

Part VI seeks to provide a summary of the Manual and to take a look into the future.

Part I

The chapters in Part I contain introductory matters and seek to give an overview of material that appears in Parts II-V of the Manual.

Although the focus here is mainly on dispute resolution and settlement, it goes without saying that – if at all possible – disputes should be avoided. Chapter 2 therefore looks at some methods in use around the world that are aimed at stopping disputes from arising in the first place.

Chapter 3 gives a brief introduction to the four dispute resolution processes that are considered in detail later in the Manual: litigation, arbitration, alternative dispute resolution (ADR) and expert determination. It also mentions some of the organisations involved in the resolution of international disputes. First, there are what might be described as supranational courts and tribunals: the International Court of Justice (ICJ), the Permanent Court of Arbitration (PCA), the International Tribunal for the Law of the Sea (ITLOS) and the International Centre for Settlement of Investment Disputes (ICSID Centre). All of these are considered in more detail in later chapters.

Second, these organisations include some of the international bodies concerned with international commercial dispute resolution: the London Court of International Arbitration; the International Court of Arbitration of the International Chamber of Commerce (ICC); the

American Arbitration Association's International Centre for Dispute Resolution in Dublin; the China International Economic and Trade Arbitration Commission; the Arbitration Institute of the Stockholm Chamber of Commerce; the Netherlands Arbitration Institute; and a specialist intellectual property body – the United Nations' World Intellectual Property Organization (WIPO). Similarly, a more detailed look is taken at these various organisations later in the Manual.

Chapter 4 refers to a number of international treaties and conventions that are of particular relevance to international trade and investment and to the resolution of international disputes: the Washington Convention (the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, also known as the ICSID Convention); the 1982 Law of the Sea Convention (UNCLOS III); and the New York Convention (the Convention on the Recognition and Enforcement of Foreign Arbitral Awards).

Part II

The Chapters in Part II deal with supranational dispute resolution: areas of dispute where one or more of the parties is likely to be a State.

Following introductory material in Chapter 5, Chapter 6 looks at international law and a convention of great significance in this field: the Vienna Convention on the Law of Treaties.

Chapters 7, 8 and 9 consider three areas of considerable importance in international dispute resolution: territorial disputes, maritime delimitation disputes and investor-State disputes. The growing importance of these three areas is demonstrated by the increasing number of disputes that are being dealt with by supranational dispute resolution bodies.

Part III

Chapters 10 to 14 of Part III deal with supranational dispute resolution bodies.

Chapter 10 contains introductory matters. Chapter 11 provides an historical overview of the ICJ and looks at the United Nations Charter, the Charter of the International Court itself and the ICJ Rules of Court and Practice Directions. The PCA is considered in Chapter 12: its history (including the Hague Peace Conventions) and some of the present-day Arbitration and Conciliation Rules.

Chapter 13 looks at ITLOS, a creation of UNCLOS III. In particular, it looks at the complex provisions for dispute resolution contained in the 1982 Convention and its Annexes.

The World Bank's ICSID Centre in Washington is considered in Chapter 14. The considerable increase in the number of cases being dealt with by the Centre shows the growing importance of international investment. The chapter looks at the history of the Centre, at various sets of ICSID Rules and at a number of problems that have arisen in the field of investor-State disputes.

Part IV

Part IV of the Manual is concerned with international commercial dispute resolution.

Following introductory matters in Chapter 15, litigation in national courts is considered in Chapter 16, including a consideration of national courts as a forum for the enforcement of – and challenge to – arbitral awards.

Chapter 17 considers international commercial arbitration. It starts by seeking to compare arbitration and litigation, and goes on to look at the United Nations Commission on International Trade Law (UNCITRAL) Model Arbitration Law and the New York Convention, arguably the most important convention in the field of international commercial arbitration.

Chapter 18 looks at some of the international commercial arbitral institutions and their various Rules. There are many such institutions worldwide, and space permits only some of them to be considered in the Manual. This chapter also looks at another area where the UN has contributed to the smooth running of world trade: the UNCITRAL Arbitration Rules.

Chapter 19 is concerned with a third method of dispute resolution in the international commercial field: ADR – its development, the different types of ADR used and some of the institutions worldwide that offer various types of ADR services. This is again an area in which the UN has played a major role, and the chapter considers the UNCITRAL Model Law on International Commercial Conciliation and the UNCITRAL Conciliation Rules.

A fourth method of dispute resolution is considered in Chapter 20: expert determination. The chapter makes some comparisons between expert determination and arbitration, and looks at cases in the area and at some of the institutions around the world that offer expert determination facilities.

Part V

Part V of the Manual is concerned with a comparatively new and exciting area of dispute resolution: online dispute resolution (ODR). This seems certain to increase in importance in the electronic era.

Chapters 21 to 25 look first at the emergence of ODR and then at two specific systems of ODR that are of particular relevance in the field of international trade and international intellectual property: the ICC's procedure for dealing with documentary credit disputes – the Documentary Credit Dispute Resolution Expertise (DOCDEX) System – and WIPO's Domain Name Dispute Resolution system.

Part VI

Chapter 26 provides a summary of the Manual and takes a look into the future.

Dispute Resolution Chart

The Dispute Resolution Chart is intended to give a broad view of the types of disputes covered in the Manual and the types of tribunal dealing with those disputes. The relevant chapter numbers are indicated on the Chart. Also indicated is any relevant international convention.

For example, international commercial disputes (Chapters 15 to 18) might be dealt with by national courts (Chapter 16) or by international commercial arbitration tribunals such as those administered by the American Arbitration Association (Chapter 18). The relevant international treaty is the New York Convention (Chapters 4 and 17).

Online disputes of the kind considered in Part V of the Manual – which looks at the Electronic Era – might be dealt with under WIPO's Domain Name Dispute Resolution scheme or the ICC's DOCDEX system. These two systems are dealt with in Chapters 23 and 24.

The Chart is not intended to be exhaustive. For example, virtually all of the disputes listed in the first column of the Chart could also be dealt with by alternative dispute resolution (Chapter 19), and a limited number of such disputes might be dealt with by way of expert determination (Chapter 20).

Types of Dispute	Tribunals Dealing with Disputes							International Conventions Applicable (Chap. 4)		
	International Court of Justice (ICJ) (Chap. 11)	Permanent Court of Arbitration (PCA) (Chap. 12)	International Tribunal for the Law of the Sea (ITLOS) (Chap. 13)	International Centre for Settlement of Investment Disputes (ICSID Centre) (Chap. 14)	National Courts (Chap. 16)	International Tribunals (Chaps. 18, 23 and 24)	United Nations Convention on the Law of the Sea (UNCLOS III) (Chap. 8)	International Convention on the Settlement of Investment Disputes (ICSID) (Chap. 9)	New York Convention (Chap. 17)	
Territorial Disputes (Chap. 7)	✓	✓								
Maritime Delimitation Disputes (Chap. 8)	✓	✓	✓				✓			
Investor-State Disputes (Chap. 9)				✓				✓		
International Commercial Disputes (Chaps. 15, 16, 17 and 18)					✓				✓	
Online Disputes (Chaps. 21-25)										✓