

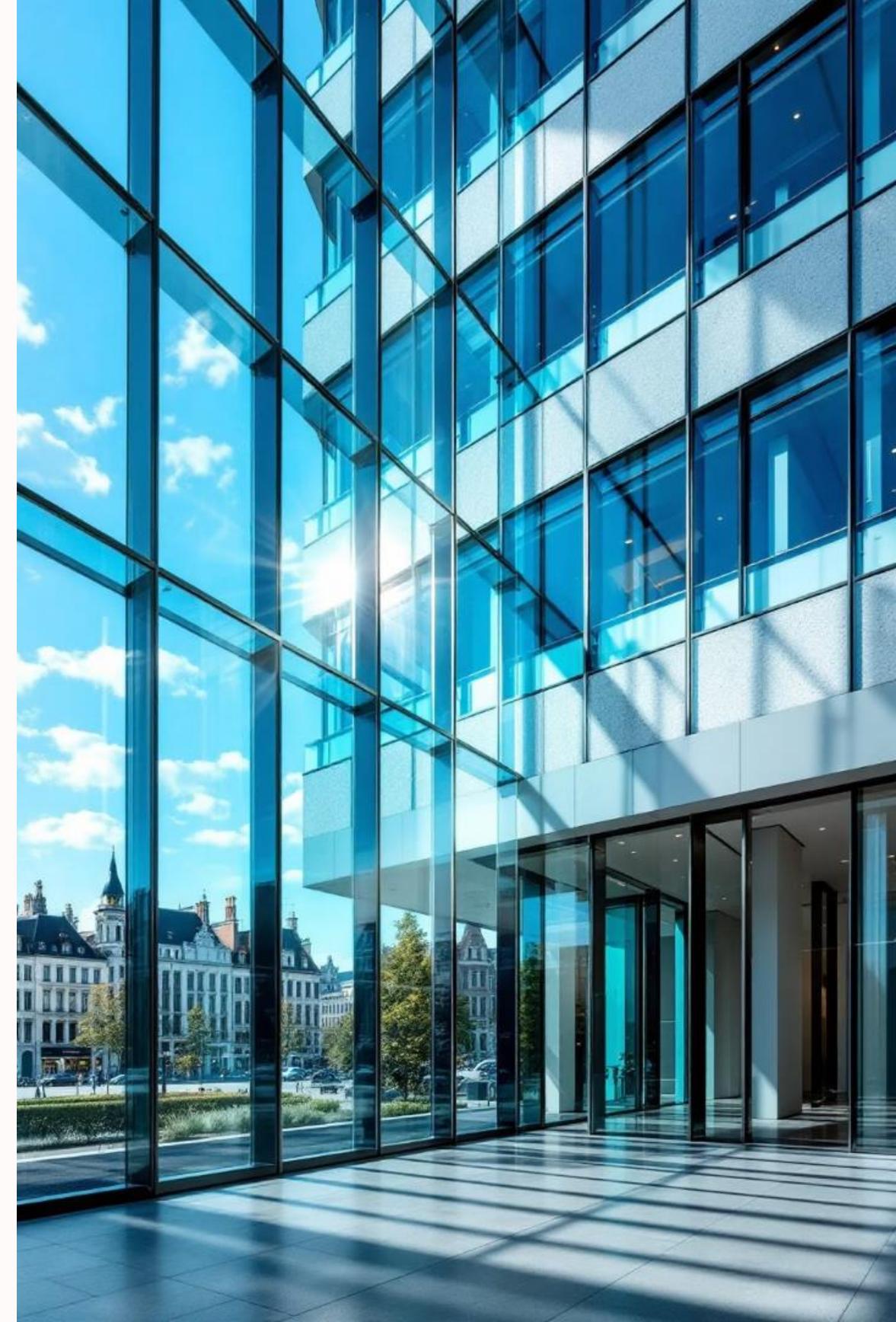


**Center for International Mediators
and Arbitrators**
England & Wales

Introduction to International Commercial Arbitration

MODULE 1 – WINTER ACADEMY

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DICKSON ON INTERNATIONAL COMMERCIAL ARBITRATION

FIRST EDITION

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OXFORDSHIRE



The Historical Roots of International Arbitration

International arbitration's journey spans millennia, evolving from ancient dispute resolution mechanisms to today's sophisticated global system:

- Ancient origins in Greece and Rome, where neutral third parties resolved disputes between city-states
- Medieval Europe's merchant courts established precedents for cross-border commercial dispute resolution
- Formalisation with the 1899 Hague Peace Conference and establishment of the Permanent Court of Arbitration
- The landmark 1958 New York Convention created the foundation for modern global enforcement



Regional Evolution of International Arbitration

Africa

Growing arbitration hubs in Johannesburg, Cairo and Lagos, with specialised centres addressing regional disputes. Challenges include hyperinflation and managing political risk factors in awards.

Europe

Pioneering region with the PCA, ICC (Paris) and LCIA (London). Continuous legal reforms maintain competitive edge through modernisation of arbitration frameworks and procedures.

Americas

US adoption of New York Convention (1970) and rise of ICSID for investment disputes. Latin American jurisdictions expanding frameworks through significant reforms in Brazil and Argentina.

Asia

Singapore, Hong Kong and China as leading centres with widespread UNCITRAL Model Law adoption. Experiencing rapid growth in both commercial and investment arbitration cases.



Key Principles of International Arbitration



Party Autonomy

Freedom to choose arbitrators, rules, venue, and language of proceedings based on mutual agreement



Neutrality

Avoidance of home-court advantage through impartial forums and arbitrators without national bias



Finality & Enforceability

Awards binding with limited grounds for challenge, enforceable under New York Convention globally



Confidentiality

Private dispute resolution preserving business relationships and sensitive commercial information



Flexibility

Procedural adaptability to complex cross-border disputes with customisable approaches

International Legal Instruments



The framework of international arbitration rests on several key legal instruments:

- **The 1958 New York Convention** - Foundational treaty for recognition and enforcement of foreign arbitral awards (146+ signatories)
- **UNCITRAL Model Law (1985)** - Template legislation adopted by 50+ jurisdictions to harmonise arbitration practice
- **ICSID Convention (1965)** - Established framework for investment treaty arbitration between states and foreign investors
- **Geneva Protocol (1923) & Convention (1927)** - Early frameworks preceding modern conventions
- **IBA Rules** - Guidelines on evidence taking and conflicts of interest representing best practices

Arbitration Institutions Worldwide



International Chamber of Commerce (ICC)

Paris-based with the largest global caseload, handling complex multi-party, multi-contract disputes. Known for robust scrutiny of awards ensuring quality and enforceability.



London Court of International Arbitration (LCIA)

UK's premier institution with historic prominence in financial, insurance, and energy sectors. Notable for efficient case management and experienced arbitrator pool.



Singapore International Arbitration Centre (SIAC)

Asia's fastest growing hub, specialising in technology, construction and maritime disputes. Features innovative emergency arbitrator provisions and expedited procedures.

Arbitration Institutions Worldwide



Center for International
Mediators and
Arbitrators (CIMA)

United Kingdom



Dubai International
Arbitration Center

UAE



Hong
Kong International
Arbitration Centre
(HKIAC)

Hong Kong.

International Centre for Settlement of
Investment Disputes (ICSID)
United States

Practice and Procedure in International Arbitration





Role of Courts in International Arbitration

Supportive Functions

- Appointment of arbitrators when parties cannot agree
- Enforcement of arbitration agreements by staying court proceedings
- Issuing interim measures when tribunal not yet constituted
- Assisting with evidence gathering from third parties
- Recognition and enforcement of arbitral awards

Supervisory Functions

- Setting aside awards on limited grounds under lex arbitri
- Reviewing jurisdictional challenges under competence-competence principle
- Enforcing public policy limitations
- Determining arbitrability of subject matter
- Addressing procedural irregularities that violate fundamental fairness

The relationship between courts and arbitration embodies a delicate balance of judicial non-interference and necessary support. The **principle of minimal court intervention** ensures arbitration's autonomy while providing a safety net for fundamental procedural fairness.



Enforcement of Foreign Arbitral Awards

- 1 Application to Recognising Court**

Award creditor files application in jurisdiction where assets are located, submitting original award and arbitration agreement (or certified copies) with translations if needed.
- 2 Limited Grounds for Refusal**

Under New York Convention Article V, courts may refuse enforcement only on specific grounds including incapacity, lack of notice, excess of authority, improper tribunal composition, or violation of public policy.
- 3 Execution Against Assets**

Once recognised, award treated similarly to domestic judgment, allowing execution against debtor's assets subject to local enforcement procedures and immunity considerations.

☐ The **pro-enforcement bias** of the New York Convention has been crucial to arbitration's success. Courts worldwide increasingly interpret grounds for refusal narrowly, favouring enforcement except in exceptional circumstances.

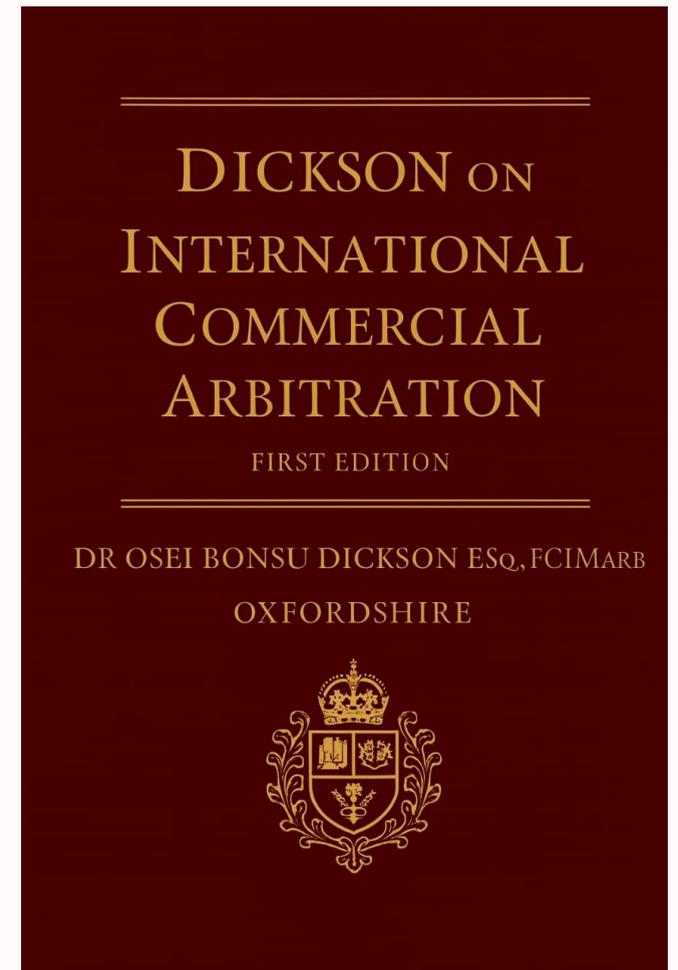
Contemporary Practices and Trends (2025)

Technological Integration

- Blockchain and smart contract arbitrations handling digital asset disputes
- AI-powered case management systems and predictive analysis tools
- Virtual hearings and electronic document management becoming standard

Market Developments

- Third-party funding (TPF) increasingly regulated but widely accepted
- ESG issues playing central role in investment and commercial disputes
- Regional law reforms in France, UK, and Switzerland to maintain competitive edge



Challenges and Opportunities in International Arbitration

Enforcement Challenges

Jurisdictions with restrictive public policy approaches create hurdles for enforcement, particularly with novel dispute types like those involving digital assets in countries like China.

Political & Economic Instability

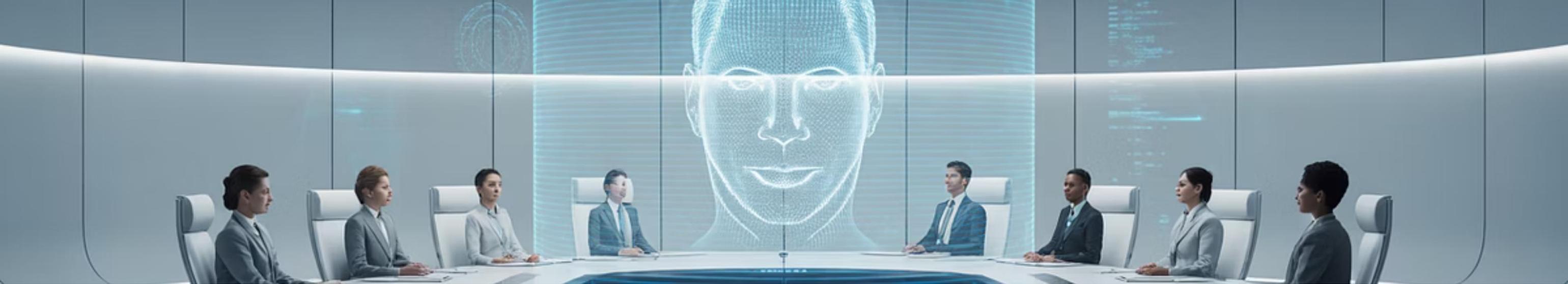
Volatile environments in parts of Africa and Latin America can undermine the efficacy of arbitration proceedings and award enforcement, requiring careful risk assessment.

Confidentiality vs. Transparency

Balancing traditional confidentiality with growing demands for transparency, especially in investment arbitration and cases with public interest implications.

Technological Adaptation

Integrating emerging technologies while ensuring procedural fairness and security presents both challenges and opportunities for modernising practice.



The Future of International Arbitration

International arbitration continues to evolve as the cornerstone of cross-border dispute resolution, adapting to meet new challenges while preserving its fundamental principles:

- Innovation in procedure and technology whilst maintaining core values of neutrality and fairness
- Growing specialisation in emerging sectors like renewable energy, digital assets, and ESG disputes
- Increasing focus on diversity and inclusion among arbitrators and practitioners
- Harmonisation of approaches across jurisdictions through continued adoption of model laws

By engaging with institutions, instruments, and scholarship in this field, practitioners can contribute to arbitration's continued relevance and effectiveness.



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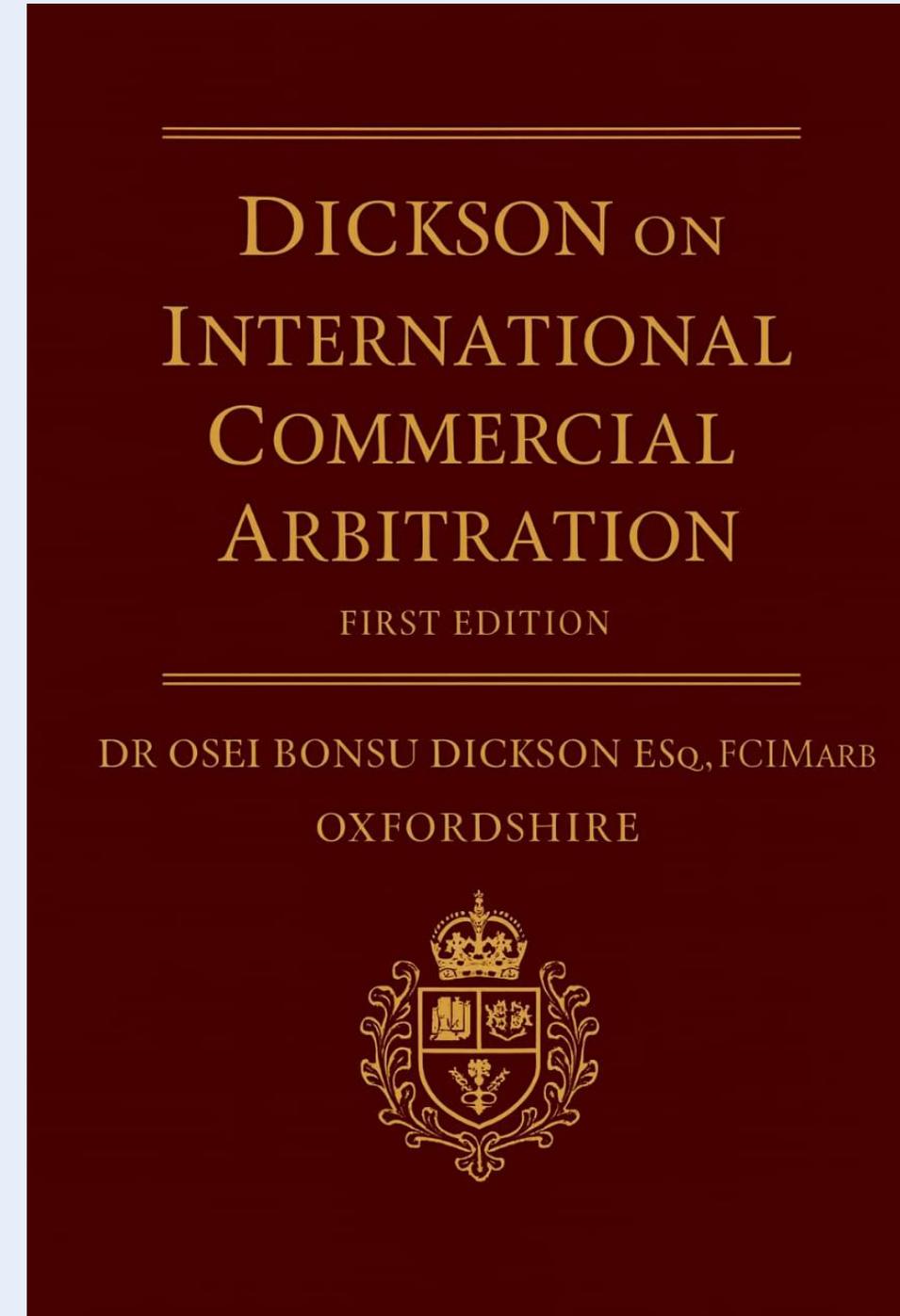
Recommended Reading List

Foundational Texts

- Osei Bonsu Dickson, *International Commercial Arbitration* (1st Edition, 2025)
- Gary Born, *International Commercial Arbitration* (3rd Edition, 2021)
- Emmanuel Gaillard & John Savage, *Fouchard, Gaillard, Goldman on International Commercial Arbitration* (1999)
- Julian D.M. Lew, *Comparative International Commercial Arbitration* (2003)

Primary Sources & Current Research

- UNCITRAL Arbitration Rules and Model Law texts (official website)
- International Council for Commercial Arbitration (ICCA) publications
- Recent articles: Charles Russell Speechlys, Skadden, WilmerHale insights on 2025 arbitration trends





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Q & A

