INTRODUCTION

Arbitration is a major method of dispute resolution internationally. This course considers its essential features.

Students should:

1. understand the legal and procedural regime for international arbitration in Australia;
2. understand the nature of arbitration as a form of dispute resolution and its advantages and disadvantages over litigation;
3. understand the relationship between domestic courts and arbitration, and the autonomy of the arbitral process;
4. understand some of the procedures of some of the major international arbitral institutions (UNCITRAL); and
5. understand issues involved in the drafting and enforcing of arbitration agreements and awards.

TEACHING AND LOCATION OF CLASS

The class will meet on 22 to 25 July, and 1 August 2008, between 9 and 5. The class will be held at the Law School.

The class will be seminar style and involve discussions of materials in class. Students should try to read over material in preparation for the class.

Contact Details of Course Leader

Kanaga Dharmananda
Francis Burt Chambers
Telephone: 9220 0401
Email: skd@francisburt.com.au

ASSESSMENT

Class Participation – 20%

Students will be assessed on the quality of their participation in classroom discussions.

Written Research Assignment – 80%

(approx 6000 to 7000 words on a topic to be agreed with the supervisor)

TO BE HANDED IN 1 October 2008.

Students should be aware of the Faculty policies concerning ethical scholarship and assignments that affect all units, available here http://www.lawstudents.law.uwa.edu.au/index/assessment_information.

Supplementary assessment is not available in this unit.
READING GUIDE

TOPIC 1 - The Nature of International Arbitration

1 Introduction

2 Arbitration (international versus domestic): its nature

3 The advantages and disadvantages of arbitration

Reading

Redfern and Hunter 1-30

Article by Buhring-Ule, Varady, Barcelo, Von Mehren, 25-27

Goode “Dispute Resolution in the Twenty-First Century”


TOPIC 2 - Applicable Law in International Arbitration

1 The law governing the substance and the arbitration agreement (including Lex Mercatoria)

2 Mandatory rules

3 The law governing arbitral procedure and the procedural rules of arbitration

Reading

Bernstein’s Handbook of Arbitration and Dispute Resolution Practice (2003) pp 673-680

Substantive Law

Akai Pty Ltd v People’s Insurance Co Ltd (1996) 188 CLR 418

The Star Texas [1993] 2 Lloyd’s Rep 445

International Arbitration Act 1974 (Cth) Sch 2 UNCITRAL Model Law Article 28

Article 28 of the Model Law

ICC Arbitration Rules Art 17

UNIDROIT Principles of International Commercial Contracts (see www.unidroit.org/english/home)

Mandatory Rules

Carriage of Goods by Sea Act 1991 (Cth) s11

Akai Pty Ltd v People’s Insurance Co Ltd (see above)

Insurance Contracts Act 1984 (Cth)

Trade Practices Act 1974 (Cth) s67