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## PREFACE

This book is believed to be the first of its kind in its particular field. It reflects the growing interest in and importance of alternative dispute resolution methods for settling sports-related disputes, at the national and international levels, as sport continues to develop significantly as a global social phenomenon and business activity. The use of the term ‘mediating’ in its title is interpreted in both a strict sense of mediation as a discrete process and technique with its defined aims and special dynamics, as well as in a broader, looser sense of settling disputes in other non-traditional and informal ways, that is, extra-judicially. So, for example, we will also look, *inter alia*, at the process of conciliation, the use of Advisory Opinions and the possibilities of employing a dedicated Sports Ombudsman to resolve sports disputes. We also include the so-called ‘Protest Rules’ of the International Paralympic Committee.

The international business community has been experimenting with and using for very many years alternative ways of settling amicably and quickly a variety of commercial disputes, not least in the fields of shipping and insurance, with a view to saving precious management resources of time and money and also facilitating the continuity of commercial intercourse and trade with the minimum of interruption and disruption. Over the centuries, the customs and practices of merchants consistently applied and followed around the world have crystallised into a settled and discrete body of Law, which has come to be known as the ‘*Lex Mercatoria*’ (the Law Merchant).

As sport has developed in recent years into a global business, the number of disputes has risen exponentially and the need for alternative forms of dispute resolution has grown significantly too. Sport has also developed its own special characteristics and structures, as well as a distinctive ethos. This, in no small measure, has been a consequence of the revival of the Modern Olympic Games by Baron Pierre de Coubertin in 1896 and the subsequent development, promotion and marketing of them in the last thirty years or so into what has justly been described as ‘the greatest sporting show on earth’.

It is perhaps not surprising, therefore, that the recently retired President of the International Olympic Committee, Juan Antonio Samaranch, early on in his presidency saw the need to provide an alternative forum to the courts in which sports related disputes could be fairly, effectively, quickly and relatively inexpensively settled within ‘the Olympic Family’. Thus, the Court of Arbitration for Sport (CAS) was born in 1983, with the specific purpose of fulfilling this particular role. Originally,

purely an arbitration body, in May 1999, a mediation service was added to reflect the growing popularity and success of this form of dispute resolution.

In this book, we will, of course, look at the work of the CAS in general and its mediation service in particular. But we will also look at other international and national bodies B sporting and non-sporting alike B offering mediation and similar sports disputes resolution mechanisms, including the UK Sports Dispute Resolution Panel, the Australian National Sports Dispute Centre and the new FIFA Football Arbitration Tribunal and the UK ADR and CEDR Groups and the US CPR Group respectively.

The book adopts an essentially practical approach to what, in fact, quintessentially, is a practical subject with an end game, but also provides an explanation of the theoretical background to the subject. It also fits in well with the series of books on the Basic Documents of International Sports Organisations published in the last few years by the T.M.C. Asser Instituut, The Hague, The Netherlands, details of which appear in the Select Bibliography. As such, the book also collects together in the Appendices a wide-ranging set of relevant and useful texts and documentation.

Whilst all reasonable care has been taken in the preparation of this book, the author wishes to make it clear that the book is intended to provide a general guide only and should not be taken or relied on as providing any specific or general legal advice on any of the matters discussed, for which the reader should seek specific professional advice. The Law and Practice are stated as of 31 March, 2002 according to the sources available at that date.

As previously mentioned, the settlement of international sports disputes by mediation is an evolving one and is expected to develop still further in the foreseeable future. The emergence of a '*Lex Sportiva*' (Sports Law) or, at the least, a '*Lex Specialis*' (a Specialised Body of Law) is an exciting prospect too for jurists and practitioners alike.

For all those concerned with the effective and amicable resolution of sports disputes of whatever kind or nature, including sports governing bodies and administrators, marketers, event managers, sponsors, merchandisers, hospitality providers, sports marketing, public relations and advertising agencies, broadcasters, in-house and outside legal advisers, students and researchers, it is the sincere aim and wish of the Author and the Publishers that this book will quickly become their '*Vade Mecum*'.