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Arbitration Law and Practice in China

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Arbitration Law And Practice In China

**Simon Greenberg, Christopher Kee, J.
Romesh Weeramantry**



Arbitration Law And Practice In China:

Arbitration Law and Practice in China Jingzhou Tao, 2012 The new rules of the China International Economic and Trade Arbitration Commission CIETAC that came into effect on 1 May 2012 are widely recognized as the full commitment of the Chinese government to the international arbitration system Clarifications of the scope of the Arbitration Law to include contractual disputes disputes over rights and interests in property and disputes between legal persons and other organizations as well as the firm establishment of the arbitration agreement as the sole and exclusive basis for founding the jurisdiction of an arbitral tribunal greatly allay any residual apprehension on the part of foreign investors This third edition of a book that has been widely relied upon since 2003 by business people and their counsel with interests in China is the first publication to offer comprehensive and authoritative coverage of the CIETAC Rules 2012 In addition to the matchless features for which earlier editions are so greatly valued such as in depth coverage of enforcement of foreign judgements in China and of Chinese judgements elsewhere measures to overcome local protectionism effects of China s most important bilateral investment treaties BITs and arbitration related interpretations of the Supreme People s Court the new edition highlights such aspects of the CIETAC Rules 2012 as the following the new mechanism of consolidation of arbitrations power to grant interim measures via the forms of procedural orders or interim awards procedure of suspension of arbitration conservator measures interlocutory award and partial award combining conciliation with arbitration and expedited process under a new summary procedure With first hand expert guidance on the actual handling of arbitration cases recommended arbitration agreement clauses for numerous contingencies case studies and comparative cases to elucidate the handling of specific issues abundant legal instruments for quick direct reference to the relevant law and an annex with English texts of the most important laws and regulations this book offers all the details and insights a practitioner needs While Arbitration Law and Practice in China is primarily a detailed practical examination of Chinese arbitration practice and related laws the Third Edition s special significance lies in its thorough and timely coverage of the CIETAC Rules 2012 For this reason especially it will be of great practical value to business people everywhere operating or seeking opportunities to partner with Chinese enterprises It will also be useful to corporate counsel arbitration institutions and students of dispute resolution

Judicial Review of Arbitration Lin Yifei, 2018-08-14 International commercial arbitration relies on the possibility of enforcing arbitral decisions against recalcitrant parties In China a crucial world market where the annual arbitration caseload has reached 200 000 and where arbitration is evolving authorities attach great importance to judicial review of arbitration This is the first book to address issues concerning the recognition and enforcement of arbitral awards under applicable law in Greater China the People s Republic PRC Taiwan Hong Kong and Macao describing and analyzing the effect of judicial review on a wealth of recent issues and cases After providing an overview of the legal framework for Chinese arbitration and judicial review of arbitration the book introduces and discusses the law governing the arbitration agreement

due process the arbitrator's power arbitrability formation of arbitral tribunal mediation and public policy In its focus on the various challenges and defenses arising at all stages of the enforcement application process such issues and topics as the following are covered in detail significant judicial interpretations of the Supreme People's Court as recent as 2018 examination of the validity of arbitration agreements setting aside and enforcement of arbitral awards by PRC arbitration institutions role of the New York Convention and other treaties succession of contract examination of evidence and role of competition law and intellectual property law In the discussion of each case and each type of issue the book shows clearly what kind of arbitral awards can be recognized and enforced in China and what kind cannot Comparative studies of foreign laws and practices are included where relevant and an abundance of primary source material is provided in appendices Practitioners global law firms companies doing transnational business jurists and academics from all countries concerned with matters regarding international and foreign related arbitration in China will welcome this invaluable source of detailed information

Arbitration Law and Practice in China Jingzhou Tao, 2012-07-01 The new rules of the China International Economic and Trade Arbitration Commission CIETAC that came into effect on 1 May 2012 are widely recognized as the full commitment of the Chinese government to the international arbitration system Clarifications of the scope of the Arbitration Law to include contractual disputes disputes over rights and interests in property and disputes between legal persons and other organizations as well as the firm establishment of the arbitration agreement as the sole and exclusive basis for founding the jurisdiction of an arbitral tribunal greatly allay any residual apprehension on the part of foreign investors This third edition of a book that has been widely relied upon since 2003 by business people and their counsel with interests in China is the first publication to offer comprehensive and authoritative coverage of the CIETAC Rules 2012 In addition to the matchless features for which earlier editions are so greatly valued such as in depth coverage of enforcement of foreign judgements in China and of Chinese judgements elsewhere measures to overcome local protectionism effects of China's most important bilateral investment treaties BITs and arbitration related interpretations of the Supreme People's Court the new edition highlights such aspects of the CIETAC Rules 2012 as the following the new mechanism of consolidation of arbitrations power to grant interim measures via the forms of procedural orders or interim awards procedure of suspension of arbitration conservator measures interlocutory award and partial award combining conciliation with arbitration and expedited process under a new summary procedure With first hand expert guidance on the actual handling of arbitration cases recommended arbitration agreement clauses for numerous contingencies case studies and comparative cases to elucidate the handling of specific issues abundant legal instruments for quick direct reference to the relevant law and an annex with English texts of the most important laws and regulations this book offers all the details and insights a practitioner needs While Arbitration Law and Practice in China is primarily a detailed practical examination of Chinese arbitration practice and related laws the Third Edition's special significance lies in its thorough and timely coverage of the CIETAC Rules 2012 For this reason

especially it will be of great practical value to business people everywhere operating or seeking opportunities to partner with Chinese enterprises It will also be useful to corporate counsel arbitration institutions and students of dispute resolution

Arbitration in China Kun Fan, 2013-02-11 In the context of harmonisation of arbitration law and practice worldwide to what extent do local legal traditions still influence local arbitration practices especially at a time when non Western countries are playing an increasingly important role in international commercial and financial markets How are the new economic powers reacting to the trend towards harmonisation China provides a good case study with its historic tradition of non confrontational means of dispute resolution now confronting current trends in transnational arbitration Is China showing signs of adapting to the current trend of transnational arbitration On the other hand will Chinese legal culture influence the practice of arbitration in the rest of the world To address these challenging questions it is necessary to examine the development of arbitration in the context of China's changing cultural and legal structures Written for international business people lawyers academics and students this book gives the reader a unique insight into arbitration practice in China based on a combination of theoretical analysis and practical insights It explains contemporary arbitration in China from an interdisciplinary perspective and with a comparative approach setting Chinese arbitration in its wider social context to aid understanding of its history contemporary practice the legal obstacles to modern arbitration and possible future trends In 2011 the thesis on which this book was based was named Best Thesis in International Studies by the Swiss Network for International Studies What distinguishes this work from other books on international arbitration is its interdisciplinary perspective and comparative approach this book makes a remarkable contribution to the understanding of arbitration in China and transnational arbitration in general Academics scholars and students of international arbitration comparative studies and globalisation may all find this book stimulating It also provides useful guidance for practitioners involved or interested in arbitration in China From the Foreword by Gabrielle Kaufmann Kohler This title is included in Bloomsbury Professional's International Arbitration online service *International Commercial Arbitration* Simon

Greenberg, Christopher Kee, J. Romesh Weeramantry, 2011-01-17 There has been an exponential rise in the use of ICA for resolving international business disputes yet international arbitration is a scarcely regulated specialty industry *International Commercial Arbitration An Asia Pacific Perspective* is the first book to explain ICA topic by topic with an Asia Pacific focus Written for students and practising lawyers alike this authoritative book covers the principles of ICA thoroughly and comparatively For each issue it utilises academic writings from Asia Europe and elsewhere and draws on examples of legislation arbitration procedural rules and case law from the major Asian jurisdictions Each principle is explained with a simple statement before proceeding to more technical theoretical or comparative content Real world scenarios are employed to demonstrate actual application to practice *International Commercial Arbitration* is an invaluable resource that provides unique insight into real arbitral practice specific to the Asia Pacific region within a global context **Arbitration in China**

Sun Wei, Melanie Willems, 2015-09-24 Arbitration in China has been aligned with international norms since the enactment of the Arbitration Law in 1994. The purpose of this book is to assist practitioners by describing the law governing arbitration in China as it is currently applied to practice both domestically and internationally taking into account the regime's numerous features. Among the details affecting arbitration practice and procedure in China covered are the following: arbitration agreement as a precondition for any arbitration proceedings; finality of arbitral awards without any right of appeal procedure governing arbitral proceedings; the extent of permissible judicial review; arbitrations with a connection to Hong Kong, Macau or Taiwan; persistent involvement of local governments in arbitration; acceptance and proceedings rules on the handling of cases with foreign elements; guidelines provided in the Supreme People's Court's judicial interpretations; fees; grounds for objecting to jurisdiction; mechanisms for multi-party arbitration; interim injunctions; formation of arbitral tribunals; use of expert witnesses; enforcement of arbitral awards; and use of mediation. Although focusing predominantly on the practical effects of Arbitration Law provisions, the authors stress practice involving China's two commissions specifically addressing international matters: the China International Economic and Trade Arbitration Commission (CIETAC) and the Beijing Arbitration Commission (BAC). Among the numerous local commissions functioning under the Arbitration Law, special attention is paid to those in Beijing, Shanghai and Guangzhou which along with CIETAC accept the greatest number of cases with a foreign element. The book will be invaluable to corporate counsel and other practitioners dealing with Chinese companies. Scholars of comparative arbitration law will also find much here to interest them.

Foreign-Related Arbitration in China Fan Yang, 2016-03-10 This overview and analysis of current arbitration law and practice in mainland China offers critical analysis of significant Chinese arbitration law materials and key cases decided by the Supreme People's Court of the People's Republic of China (PRC). It also provides the full texts of around two hundred decisions of the Supreme People's Court of the PRC dating from 1990 to 2013 with enclosures of lower People's Courts' decisions presented in a systematic fashion. The analysis not only highlights the importance of the materials, judicial interpretations and key cases but also enables readers to read mainland Chinese statutes, judiciary interpretations and cases independently and confidently.

Chinese Arbitration Association for International Arbitration, 2009 A prosperous economy goes hand in hand with a competent, impartial and efficient legal system. International investment is only possible when the business parties are confident that adequate dispute resolution possibilities exist. A conference on Arbitration in China was held by the Association for International Arbitration (AIA) in March 2009. This book, a product of the conference, highlights the newest opportunities and updates for lawyers, arbitrators, mediators and investors about arbitration and mediation in the event a dispute were to arise with Chinese partners. The book includes the conference's opening remarks presented by the president of the AIA, Johan Billiet, who highlights the differences between Chinese and Western arbitration. Other contributions include the issue of mediation and arbitration in China, International Chamber of Commerce arbitration in China, arbitration differences between

China International Economic and Trade Arbitration Commission and other Asian institutions such as Hong Kong International Arbitration Center Singapore International Arbitration Center Korean Commercial Arbitration Board and Japan Commercial Arbitration Association recent developments in Chinese arbitration the issue of recognition and enforcement of arbitral awards in China **China Law and Practice** ,1998 **Dispute Resolution in China** Michael J. Moser,2012-07-01 Dispute Resolution in China provides an up to date summary commentary and analysis of how disputes are settled in today s China Like in many other jurisdictions litigation and arbitration are the main dispute resolution methods to settle large commercial disputes in China While litigation is more commonly used in domestic commercial disputes arbitration is the most popular dispute resolution method among foreign parties who conduct business in China or with Chinese parties Each of the chapters contained in this book deals with a selected topic in dispute resolution and is authored by a leading expert in the field This book is a necessary resource for arbitration and litigation attorneys as well as other professionals conducting business in China s increasingly regulated and complex business environment **The Chinese Legal System** Pitman B. Potter,2005-07-08 This book analyses the major features of the Chinese legal system on the eve of its accession to the World Trade Organisation and will be essential reading for students and academics in the field of Chinese law **Private International Law in China** Guangjian Tu,2015-10-28 This book provides a systematic elaboration of Chinese Private International Law reveals the general techniques concerning conflict of laws in China explains the detailed Chinese conflict rules for different areas of law and demonstrates how international civil litigation is pursued in China Clearly structured and written by a native Chinese scholar specializing in the field the book s easy to read style makes it accessible to a broad readership while its content makes it a useful reference guide especially for jurists and researchers **The Enforceability of the Interim Measures Granted by an Emergency Arbitrator in International Commercial Arbitration** Junmin Zhang,2024-09-06 This timely book offers a comprehensive study of the emergency arbitrator mechanism that provides interim measures in international commercial arbitration before the constitution of an arbitral tribunal focusing on the enforceability of the interim measures granted Based on the traditional legal doctrines of private international law international dispute resolution and arbitration law this book is featured mainly in comparative studies Six leading arbitral institutions are chosen to conduct systematic research on applying the emergency arbitration rules to establish a general and common procedural framework for emergency arbitration in discussion Normative and comparative law analyses investigate the status quo of available legal instruments used to recognize and enforce interim measures in emergency arbitration by examining international conventions and three representative chosen jurisdictions i e Singapore Mainland China and the USA Following these two levels of comparison it highlights and examines the potential doctrinal and practical barriers that may impact the enforceability of interim measures rendered by an emergency arborator Finally it proposes various approaches that could be used to improve the enforceability controversy and it offers innovative suggestions for further research This

book is of particular relevance and interest to students researchers and practitioners in dispute resolution and arbitration law as well as policymakers legislators and arbitral institutions considering further reform in international arbitration

Doing Business In China Michael J. Moser ,Fu Yu,2014-04-01 Doing Business in China provides over 3 000 pages of extensive and comprehensive analysis on Chinese business and commercial law and practice This work is the most thorough reference and guide to all major areas of business law and investment in the People s Republic of China and offers a wide ranging analysis and commentary on Chinese business laws For over thirty years Doing Business in China has been one of the premier sources of practical information and analysis on issues affecting foreign investment in China This multi volume treatise captures the collective experiences and knowledge of prominent practitioners and business and legal experts with respect to the essential areas of PRC investment and commercial law Designed for those who are either planning to invest in China or who already have an established presence Doing Business in China provides a detailed examination of all relevant legislation and practice in China that affects business and investment It also closely examines key issues and potential pitfalls involved in all areas of business and investment

The Public Policy Exception in the Judicial Review of International Commercial Arbitral Awards Shu Zhang,2023-09-19 This book systematically examines how the Chinese arbitration law system responds to the application of the public policy exception in the judicial review of international arbitral awards The discussion is based on a general understanding of the legal concept of public policy in international arbitration practice and the understanding developed in Chinese arbitration law and judicial practice In focusing on both international developments and Chinese arbitral and judicial practice this book provides some lessons from and for China The book is based on a review of both legislation and cases in China and a comparison with the international trends and consensus as well as a systematic assessment of China s performance in defining and applying public policy in the judicial review of international commercial arbitral awards Valuable insights are provided on the basis of detailed analysis of the relevant cases In this context the author raised and examined a few key questions to be answered by the judicial practice including the international nature of public policy the key elements of public policy and the appropriate boundaries of judicial review The author also highlighted a few unique legal concepts and approaches adopted in the Chinese context and evaluated its impacts on foreign parties and practitioners dealing with arbitration issues in China It is proposed that in the context of China s recent law reforms further steps are expected to be taken by the Chinese legal system in order to achieve a more comprehensive view of the public policy exception that is consistent with the globalized trend of a converging understanding of public policy in international arbitration

ICCA Reports No. 5 ,2019 It has been challenging for foreign practitioners to find out about Chinese arbitration laws and legal materials first because the English translation is not always readily available and importantly there are many sources of such materials published and pronounced in different times This compendium addresses both challenges and provides a complete and user friendly tool for Chinese and foreign practitioners This

compendium will be of assistance to practitioners applying Chinese arbitration laws and will provide more information to foreign and domestic parties alike in choosing China as a seat of arbitration The Working Group hopes that this first product will be an incentive to further enhance the development of international arbitration law and practice in China

Commercial and Maritime Law in China and Europe Shengnan Jia,Lijun Liz Zhao,2022-12-26 Both China and Europe have a long tradition of commercial and maritime law and this new book examining various topics from their particular perspectives is both timely and important It links the vital component of maritime law with commercial law financial law and trade policy The book has performed a remarkable task in making connections between China and Europe through the lenses of substantive and procedural laws covering a wide range of areas including commercial law insurance law salvage EU maritime law and Brexit carriage of goods by sea arbitration mediation litigation the recently formed China International Commercial Court and different liability regimes as well as a brief look forward into new initiatives and artificial intelligence in the digital age In these challenging times we all have much to learn from each other in seeking to find answers to what are often difficult problems This book provides a welcome opportunity for anyone interested in commercial and maritime law to engage in that learning exercise and looking ahead thereby to help solve such problems as may arise in the future in a practical and fair manner It is therefore of great relevance to both the academic field and the legal practice field in China and Europe

Arbitration and Contract Law Neil Andrews,2016-04-18 This book deals with the contractual platform for arbitration and the application of contractual norms to the parties dispute Arbitration and agreement are inter linked in three respects i the agreement to arbitrate is itself a contract ii there is scope subject to clear consensual exclusion in England for monitoring the arbitral tribunal's fidelity and accuracy in applying substantive English contract law iii the subject matter of the arbitration is nearly always a contractual matter These three elements underlie this work They appear as Part I arbitration is founded on agreement Part II monitoring accuracy Part III synopsis of the English contractual rules frequently encountered within arbitration The book will be a useful resource to foreign lawyers or English non lawyers English lawyers seeking a succinct discussion and to arbitral tribunals

Foreign-Related Commercial Disputes Resolution in China Jianli Song,Bing Cheng,2024-03-28 Combining the author's many years of legal practice experience this book examines the current hot and difficult issues arising in the legal practice of foreign related commercial disputes in China The book focuses on the application of the United Nations Convention on Contracts for the International Sale of Goods CISG in Chinese courts judicial review of foreign related arbitral awards judicial cooperation in cross border insolvency and legal relationships in legal disputes over electronic commerce The book pays close attention to the latest legislative achievements of the international community and their impact on Chinese judicial practice thus helping to strengthen exchanges and cooperation among countries along the Belt and Road and providing more effective rule of law protection for Chinese enterprises going global

International Contracting: Law and Practice Larry A. DiMatteo,2016-10-25 For well over a decade this prized

guide has served practitioners handling the legal ramifications of international contracting projects. The fourth revised and expanded edition thoroughly describes the new and ever changing concepts and procedures that continue to redefine the researching, drafting and execution of international contracts. More profoundly it takes fully into account the hugely increasing volume of international trade and its ongoing expansion into more and more countries worldwide and the concomitant need for businesspersons and transactional lawyers to be aware of the numerous recent international conventions and supranational responses to facilitate trade. All the invaluable features of earlier editions are of course still here including analysis of key contract issues unique to various types of contracting, common contract clauses such as choice of law and dispute resolution clauses, contract checklists, insights gleaned from actual cases and arbitral proceedings and clear explanation of the principles of good contract drafting. The major relevant international conventions, model laws, pertinent national laws, legal guides and other documents and instruments are all covered with primary texts provided in appendices. Among the numerous issues and topics that arise are the following: incorporation of standard terms, difficulties of multiple language contracts, *lex mercatoria*, liability based upon preliminary agreements, issues of termination, regulation of Internet sales, role of model or uniform laws, sale of services, national law restrictions on the cross border sale of services, intellectual property transfer and licensing agreements, franchising and joint ventures, electronic contracting and confidentiality, nondisclosure agreements and covenants not to compete. More than merely an accessible reference that can be used as a framework tool in the negotiating and drafting of international contracts, this volume offers expert insights regarding the reasonableness of many contract clauses and the likelihood of their enforcement in a foreign jurisdiction. Because knowledge of the nuances of international transactional law cannot be overstated, this book is not only valuable but necessary. An adroit combination of contract theory and contract practice, the book continues to provide guidance to the law practitioner and student alike.

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