

Arbitration Law and Practice in China

THIRD EDITION

JINGZHOUTAO



Wolters Kluwer
Law & Business

Arbitration Law And Practice In China

**Association for International
Arbitration**



Arbitration Law And Practice In China:

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

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 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 *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 *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

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's Foreign Investment Legal Regime Yuwen Li, Cheng Bian, 2022-03-10 China has developed a piecemeal pattern of regulating foreign investment since the end of 1970s The latest law is the Foreign Investment Law FIL which became effective on 1 January 2020 The groundbreaking new FIL is well acknowledged for its promises and affirmations pledged to investors signalling China's eagerness to improve its investment environment and regain momentum for investment growth This book provides an updated and holistic understanding of the key features of the regulatory regime

on foreign investment in China with critical analysis of laws and their implementation It also examines sensitive and complex legal issues relevant to foreign investment beyond the 2020 FIL and new developments on foreign related dispute settlement The book uses cases of success and failure to illustrate the nuances and differences between law and practice regarding foreign investment Considering China s magnitude in the global economy and the weighty role of the regulatory system on foreign investment in China this book is of great interest to a wide range of audience including academics in the field of investment law legal practitioners policymakers and master s students in law and in management

Arbitrability Fabien Gélinas, Leyla Bahmany, 2023-11-17 As simple as the arbitrability question might appear namely what types of issues may and may not be submitted to arbitration for a legal system to set a clear and consistent approach to arbitration it must consider many complicated factors that relate to public policy and economic priorities as well as international relations This comprehensive precise and practical book identifies and analyzes the fundamentals of and major approaches to arbitrability in the current international context The authors focus on nine major arbitration jurisdictions the United States Canada France England and Wales Switzerland Germany China Mainland Hong Kong and Singapore with meticulous attention to each jurisdiction s pertinent case law and legislative framework as well as relevant commentary For each jurisdiction the arbitrability of disputes in the following fields of law is discussed antitrust competition bankruptcy insolvency consumer corporate family domestic relations intellectual property copyright patent and trademark labor employment securities and torts Based on the jurisdiction by jurisdiction analysis the authors identify key areas in which the selected jurisdictions share similarities and evince differences with respect to each of the above mentioned fields With a structure that enables readers to easily locate what they are looking for and gives clear cut answers this unique book fully elucidates the notion of arbitrability by identifying the key concepts the applicable rules and different criteria for arbitrability and by explaining how different jurisdictions deal with specific types of disputes It will be welcomed by counsel arbitrators judges students and academics active in international arbitration and the enforcement of arbitral awards

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

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