

**INTERNATIONAL COMMERCIAL
ARBITRATION IN ASIA**

Third Edition

**SHAHLA F. ALI
TOM GINSBURG**

Editors

JURIS

Questions About This Publication

For assistance with shipments, billing or other customer service matters, please call our Customer Services Department at:

1-631-350-2100

To obtain a copy of this book, call our Sales Department:

1-631-351-5430

Fax: 1-631-351-5712

Toll Free Order Line:

1-800-887-4064 (United States & Canada)

See our web page about this book:
www.arbitrationlaw.com

COPYRIGHT 2013
by JurisNet, LLC

All Rights Reserved
Printed in the United States of America
ISBN 978-1-933833-95-8

JurisNet, LLC
71 New Street
Huntington, New York 11743
USA
www.arbitrationlaw.com

**SUMMARY
TABLE OF CONTENTS**

Table of Contents	iii
Editors and Contributors	xxvii
Introduction	xxxv

Chapter 1

Arbitration in Asia in a Comparative Perspective: Examining the Role of the Arbitrator in Facilitating Settlement	1
<i>Shahla F. Ali</i>	

Chapter 2

Arbitration in Cambodia	51
<i>Kim Rooney and Vicheka Lay</i>	

Chapter 3

Arbitration in China	77
<i>Weixia Gu</i>	

Chapter 4

Arbitration in Hong Kong	133
<i>David Sandborg</i>	

Chapter 5

Arbitration in India	163
<i>Ashwinie Kumar Bansal and Abhishek Kumar Bansal</i>	

Chapter 6

Arbitration in Indonesia	187
<i>Tony Budidjaja</i>	

Chapter 7

Arbitration in Japan	223
<i>Tatsuya Nakamura and Luke Nottage</i>	

Chapter 8

Arbitration in Korea	263
<i>Byung-Chol Yoon, Grant L. Kim and Chul-Won Lee</i>	

Chapter 9

Arbitration in Malaysia	303
<i>Vinayak Pradhan and Lam Wai Loon</i>	

Chapter 10

Arbitration in Mongolia	341
<i>Ingram Weber and Undarmaa Ganbaatar</i>	

Chapter 11

Arbitration in the Philippines	367
<i>Victor P. Lazatin and Patricia-Ann T. Prodigalidad</i>	

Chapter 12

Arbitration in Singapore	465
<i>Lih Shyng Yang and Leslie Chew</i>	

Chapter 13

Arbitration in Taiwan, the Republic of China 503
Angela Y. Lin and Nigel N.T. Li

Chapter 14

Arbitration in Thailand..... 537
Surapol Srangsomwong and Christopher Bailey

Chapter 15

Arbitration in Vietnam..... 569
Bui Thi Bich Lien

Index..... 595

TABLE OF CONTENTS

Editors and Contributors	xxvii
Introduction	xxxv

Chapter 1

Arbitration in Asia in a Comparative Perspective: Examining the Role of the Arbitrator in Facilitating Settlement

I. Introduction	2
A. Overview of Survey Research & Relevance to the Field of the Globalization of Law	3
1. The Impact of Globalization on Settlement in International Arbitration Practice	3
2. Expanding “International Arbitration” beyond Western Models	5
3. A Survey of International Arbitrators	7
4. Principle Findings	9
B. Examining the Forces of “Harmonization” and “Legal Diversity” in East Asia and the West	10
1. Promoting Harmonization: Overview of the UNCITRAL Model Law System	10
2. Legal Diversity: Underlying Cultural Roots of Arbitration in East Asia and the West	13
3. Traditional East Asian Approach to Dispute Resolution	14
a. Integration of Settlement Attempts into East Asian Arbitration	19
b. The China International Economic and Trade Arbitration Commission (CIETAC)	20
c. Combination of arbitration with mediation within CIETAC	21
d. Hong Kong International Arbitration Center	24
e. Singapore International Arbitration Center	27
f. Japan Commercial Arbitration Association	28

g.	Korean Commercial Arbitration Board	29
4.	Summary	30
C.	A Survey of Settlement in the Context of Arbitration of International Business Disputes in Asia	30
1.	Internationally Based Considerations–Convergence	31
2.	Informed Divergence–Greater Emphasis on Settlement in East Asia	33
a.	Settlement as a Goal of Arbitration	34
b.	Frequency and Timing of Settlements.....	36
c.	Overall Settlement Rate	36
3.	Discussion.....	39
4.	Reconciling Cultural Diversity and International Conventions in the Context of International Commercial Arbitration in East Asia.....	40
5.	Implications of Study.....	40
II.	Bibliography	42

Chapter 2

Arbitration in Cambodia

I.	Overview of Relevant Legislature Framework.....	52
A.	Primary Laws	53
B.	International Treaties and Conventions.....	53
1.	The New York Convention.....	53
2.	The ICSID Convention	54
3.	1899 & 1907 Convention for the Pacific Settlement of International Disputes.....	55
4.	The ASEAN Treaty	55
5.	Bilateral Investment Treaties	57
6.	United Nations	58
II.	The National Arbitration Centre of Cambodia	58
III.	The 2006 Commercial Arbitration Law.....	60
IV.	The Role of the Courts.....	62
V.	Form and Scope of Arbitration Agreements.....	64
VI.	Arbitrability of Claims.....	64
VII.	Commencing the Arbitration	65

VIII.	Selection of and Challenge to Arbitrators.....	66
IX.	Place and Language of Arbitration	67
X.	Representation in Proceedings.....	67
XI.	Conduct of Proceedings	68
XII.	Powers of the Tribunal.....	68
XIII.	Defaulting Party.....	68
XIV.	Formalities for Award.....	69
XV.	Deadline for Issuing Arbitral Awards.....	69
XVI.	Correction of the Arbitral Award.....	69
XVII.	Local Practice and Licensing Requirements for Foreign Lawyers	70
XVIII.	Choice of Law in Arbitration Proceedings	70
XIX.	Interim Measures	70
XX.	Disclosure of Documents and Information.....	71
XXI.	Costs	71
XXII.	Setting Aside.....	71
XXIII.	Arbitration Practice in Cambodia	73
	A. Ad-hoc Arbitration	73
	B. Role of Mediation (if any).....	73
	C. Role of Experts (if any).....	73
	D. Whether Arbitrators Have Immunity from Suit	74
XXIV.	Recognition and Enforcement	74
XXV.	Conclusion	75

Chapter 3

Arbitration in China

I.	Introduction.....	77
	A. Arbitration and Legislative Development since 1978	77
	B. Sources of Regulations on Arbitration	80
	1. 1994 Arbitration Law	80
	2. State Council Regulations.....	81
	3. Judicial Interpretations.....	82
	4. Arbitration Commission Rules	84
	5. International Agreements.....	85
	C. Role of the Chinese Courts.....	86

II.	Special Features of Arbitration in China	88
	A. Institutional Arbitration Only	88
	B. Dual-track Arbitration	90
	C. Harmonious Arbitration (Combining Arbitration with Mediation)	94
III.	International Commercial Arbitration Practice in China	97
	A. Arbitration Agreements	97
	B. Applicable Law	99
	C. <i>Competence-Competence</i> and Arbitral Jurisdiction	101
	D. Selection of Arbitrators and the Panel Arbitrator Tribunal	104
	E. Interim Measures	109
	F. Evidence and Proceedings	110
	G. Seat (Place) and Language of Arbitration	113
IV.	Enforcement of Arbitral Awards in China	115
	A. Domestic Awards	115
	B. Foreign-related Awards	116
	C. Foreign Awards	119
	D. Other Issues Concerning Non-enforcement: Re-arbitration	124
	E. Special Enforcement Arrangements with Hong Kong, Macau, and Taiwan	126
V.	Conclusion	129

Chapter 4

Arbitration in Hong Kong

I.	Introduction	133
II.	The New Arbitration Ordinance of 2011—Major Changes	135
III.	The UNCITRAL Model Law	136
IV.	Historical Evolution of Arbitration Law in Hong Kong	137
V.	Structure of the New Arbitration Ordinance of 2011	141
VI.	Key Provisions of the New Arbitration Ordinance of 2011	143
	A. Object and Principles of the Ordinance	143
	B. Representation and Preparation of Work— Foreign Lawyers	143

C.	Scope of Permissible Relief	144
D.	Confidentiality.....	144
	1. Proceedings to Be Heard Other Than in Open Court .	144
	2. Duty of Non-disclosure.....	144
E.	The Arbitration Agreement—“The Writing Requirement”	145
F.	Composition of the Arbitral Tribunal.....	145
	1. Arbitrators.....	146
	2. Mediators	146
G.	Jurisdiction of the Arbitral Tribunal— <i>Kompetenz-Kompetenz</i>	147
H.	Interim Measures and Preliminary Orders— <i>Ex Parte</i> Applications	148
I.	Court-Ordered Interim Measures	148
J.	Conduct of the Arbitral Proceedings	149
K.	Peremptory Orders	149
L.	Enforcement of Orders and Directions of the Arbitral Tribunal	149
M.	Making of the Arbitral Award.....	150
N.	Recourse against the Award	150
O.	Enforcement of Awards	151
	1. Enforcement of Arbitral Awards That Are Neither Convention Awards Nor Mainland Awards	151
	2. Enforcement of Convention Awards	151
	3. Enforcement of Mainland Awards.....	152
P.	Provisions Expressly Opted-for or Automatically Applied	152
	1. Sole Arbitrator	153
	2. Consolidation of Arbitrations	153
	3. Decision by the Court on a Preliminary Question of Law	154
	4. Challenging the Award on the Ground of “Serious Irregularity”	154
	5. Appeal against Arbitral Award on Question of Law	154
Q.	Costs of the Arbitral Proceedings.....	155
VII.	Enforcement of Awards between Hong Kong And Mainland China	155

VIII.	Arbitral Institutions in Hong Kong	158
	A. Hong Kong International Arbitration Centre	158
	B. International Chamber of Commerce Arbitrations.....	159
IX.	Arbitral Organizations in Hong Kong.....	160
	A. Chartered Institute of Arbitrators (East Asia Branch).....	160
	B. Hong Kong Institute of Arbitrators	160
X.	Conclusion	160

Chapter 5

Arbitration in India

I.	Introduction.....	163
II.	Legal Framework, Courts and Laws in India.....	164
III.	The Indian Arbitration and Conciliation Act of 1996.....	167
IV.	The Applicability of the Indian Arbitration Act to International Arbitrations.....	168
V.	The Arbitration Agreement.....	170
VI.	Arbitration in Practice: Institutional Versus <i>Ad Hoc</i> Arbitration.....	175
VII.	Composition of Arbitral Tribunal, Selection of Arbitrator and Challenges	175
VIII.	Conduct of Proceeding: Arbitral Procedure, Language, Evidence and Hearings	178
IX.	Rendering of Award—Costs, Deposits and Other Considerations	179
X.	Recourse against Arbitral Awards—Enforcement and Setting Aside of Award	181
XI.	Conciliation.....	184
XII.	Conclusion	184

Chapter 6

Arbitration in Indonesia

I.	Historical Development of Indonesian Arbitration Legislation	187
----	---	-----

A.	Before and Not Long After the Independence of Indonesia	187
B.	The ICSID Convention and Bilateral Investment Treaties	188
C.	The New York Convention	192
D.	The Indonesian Arbitration Law	194
II.	The Current State of Arbitration in Indonesia	195
A.	The Current Perceptions of Indonesian Businesspeople on Arbitration	195
1.	Lack of Awareness	195
2.	Not Appealability of the Awards	196
3.	Lack of Qualified Arbitrators	197
4.	Higher Cost	197
5.	Indonesian Court's Expertise and Experience in Arbitration	197
6.	No Special Court to Support Arbitration	197
B.	The Use of Ad Hoc and Institutional Arbitration in Indonesia	199
III.	Salient Features of Indonesian Arbitration Law	201
A.	Arbitration Agreement	201
B.	Autonomy/Separability of Arbitral Clause	202
C.	Limited Court Involvement	202
D.	Party Autonomy	203
E.	Equal Treatment of the Parties	203
F.	Confidentiality	203
G.	Enforceability of Arbitral Awards	204
H.	Interim Measures	204
IV.	Enforcement of Arbitral Awards	207
A.	Distinction between International and National Arbitration Awards	207
B.	Registration of the Awards	208
C.	Exequatur	211
V.	Refusal of Enforcement of Arbitral Awards	214
A.	Opposition of Enforcement	220
VI.	Annulment of Arbitral Awards	220
A.	Grounds for Annulment	220
B.	Court Process	222

Chapter 7

Arbitration in Japan

I.	Introduction.....	223
	A. General Patterns	223
	B. Historical Development of Japan's Arbitration Legislation.....	228
II.	The Legal Framework for International Arbitration in Japan...	230
	A. Key Applicable Law.....	230
	B. The Role of Courts	231
	C. Form and Scope of Arbitration Agreements	232
	1. Form of Arbitration Agreement.....	232
	2. Scope of Arbitration Agreement.....	233
	D. Arbitrability of Claims	233
	1. Consumer Arbitration and Individual Employment Arbitration.....	235
	E. Selection of and Challenge to Arbitrators	236
	1. Qualifications.....	236
	2. Appointment of Arbitrators	237
	3. Challenge of Arbitrators	238
	4. Removal of Arbitrators	239
	F. Place (Seat) and Language of Arbitration	240
	G. Conduct of Proceedings	241
	1. Commencement of Arbitral Proceedings.....	241
	2. Written Notice in Arbitral Proceedings	241
	3. Court Assistance in Taking of Evidence.....	242
	4. Settlement	243
	H. Issuance and Correction of the Arbitral Award.....	244
	1. Issuance of the Arbitral Award	244
	2. Correction of the Arbitral Award.....	245
	I. Foreign Lawyers' Involvement in Arbitration	245
	1. Applicable Law.....	246
	J. Interim Measures of Protection	248
	K. Pleas as to the Jurisdiction of the Arbitral Tribunal	249
	L. Costs of Arbitration	250

III.	Arbitration Practice in Japan.....	251
	A. Arbitral Institutions	251
	1. Japan Commercial Arbitration Association (JCAA) ...	251
	2. The Japan Shipping Exchange (JSE).....	253
	3. Arbitration Centers Established by Local Bar Associations.....	253
	4. Japan Sports Arbitration Agency.....	254
	5. Construction Disputes Committee	254
	B. Ad Hoc Arbitration.....	255
	C. Other Organizations Promoting Arbitration in Japan.....	255
IV.	Enforcement of Arbitral Awards	255
	A. General Structure for Enforcement	255
	B. Enforcement and Setting Aside of Domestic Awards.....	256
	1. Enforcement of Domestic Awards.....	256
	2. Setting Aside of Arbitral Awards	256
	C. Enforcement of Foreign Arbitral Awards	259
	D. Courts and the Enforcement of Awards	261
V.	Conclusion	261

Chapter 8

Arbitration in Korea

I.	Introduction.....	263
II.	The Legal Framework for International Commercial Arbitration in Korea.....	265
	A. Applicable Laws.....	265
	B. The Role of Courts with Respect to Arbitrations in Korea	267
	C. Parallel Court and Arbitral Proceedings.....	268
	D. The Form and Scope of Arbitration Agreements	271
	E. The Scope of Arbitrable Claims.....	272
	F. Choice of Law and the Permissibility of <i>Lex Mercatoria</i> or Equity.....	274
	G. Selection of and Challenge to Arbitrators	274
	H. Place and Language of Arbitration.....	277

	I. Conduct of the Arbitration Proceedings	278
	J. Issuance and Correction of the Arbitral Award.....	281
III.	Arbitration Practice in Korea	282
	A. Rapid Growth of Korean International Arbitration Practice	282
	B. KCAB Arbitration	283
	1. Background on the KCAB	283
	2. The KCAB International Arbitration Rules	283
	C. Practical Considerations for Korean International Arbitrations.....	290
IV.	Enforcement and Setting Aside of Arbitral Awards	292
	A. General Structure for Enforcement	292
	B. Enforcement and Setting Aside of Domestic Arbitral Awards	293
	C. Enforcement of Foreign Arbitral Awards	295
	D. Korean Courts and the Enforcement of Arbitral Awards ...	297

Chapter 9

Arbitration in Malaysia

I.	Introduction.....	303
II.	The Conduct of Arbitration In Malaysia.....	303
	A. The Historical Perspective	303
	B. An Overview of the 2005 Act	305
	C. The Arbitration (Amendment) Act 2011	306
	1. Section 8	306
	2. Section 10	306
	3. Section 11	307
	4. Section 30	308
	5. Section 39	308
	6. Section 42(1A).....	309
	7. Section 51	310
	D. Domestic Arbitration vs. International Arbitration	311
	E. Reference to Arbitration.....	313
	F. Composition of Arbitrators	315

G.	Power of the Arbitral Tribunal to Rule on Its Own Jurisdiction	316
H.	Evidentiary Matters & Rules of Procedures	321
I.	Choice of Law Rules	322
J.	Preliminary Relief and Interim Measures	322
	1. Power of the High Court in Granting Interim Measures	325
	2. Power of the Arbitral Tribunal in Granting Interim Measures	326
	3. Recognition and Enforcement of Interim Order Issued By a Court of Another Jurisdiction in Aid of Arbitration.....	327
K.	Making of an Award	328
L.	Recourse against an Award	329
	1. Application for Setting Aside under Section 37	329
	2. To Resist Recognition and Enforcement of an Award under Section 39.....	334
	3. Reference on Questions of Law under Section 42.....	337
M.	Enforcement of an Award	338
III.	Conclusion	340

Chapter 10

Arbitration in Mongolia

I.	Introduction.....	341
	A. General Patterns	341
	B. Historical Development of Mongolia's Arbitration Framework	341
II.	The Legal Framework for International Arbitration	344
	A. Key Applicable Law.....	344
	B. The Role of Courts	345
	C. Form and Scope of Arbitration Agreements	346
	1. Form of Arbitration Agreement.....	346
	2. Scope of Arbitration Agreement.....	347
	D. Arbitrability of Claims	347
	E. Selection of and Challenge to Arbitrators	348

1.	Qualifications.....	348
2.	Appointment of Arbitrators	348
3.	Challenge of Arbitrators	349
4.	Removal of Arbitrators	350
F.	Place and Language of Arbitration.....	350
G.	Conduct of Proceedings	351
1.	Determining Rules of Procedure.....	351
2.	Rules Applicable to the Substance of the Dispute	352
3.	Statements of Claim and Defense	352
4.	Assistance and Confidentiality	353
H.	Issuance and Correction of the Arbitral Award.....	354
1.	Issuance of the Arbitral Award	354
2.	Correction of the Arbitral Award.....	354
I.	Interim Measures of Protection	355
J.	Pleas as to the Jurisdiction of the Arbitral Tribunal	356
K.	Costs of Arbitration	356
L.	Investment Arbitration	357
III.	Arbitration Practice in Mongolia	358
A.	Arbitration Institutions	358
B.	Ad Hoc Arbitration.....	363
IV.	Enforcement of Arbitral Awards	363
A.	Enforcement and Setting Aside of Domestic Awards.....	363
1.	Enforcement of Domestic Awards.....	363
2.	Setting Aside of Arbitral Awards	364
B.	Enforcement of Foreign Arbitral Awards	365
V.	Conclusion	365

Chapter 11

Arbitration in the Philippines

I.	Introduction.....	367
A.	History of Arbitration in the Philippines.....	368
B.	The Practice of Arbitration in the Philippines Today.....	370
C.	Sources of Law.....	373
D.	Traditional and Cultural Modes of Dispute Resolution in the Philippines.....	376

II.	Choice of Philippine Law: Consequences For the Arbitration Agreement And Arbitrability of the Dispute	377
	A. Arbitration Agreement: Intrinsic and Extrinsic Validity...	378
	B. Arbitrability of Disputes.....	381
	1. Subject Matter Involved.....	382
	2. Parties' Capacity to Arbitrate	384
	3. Scope of Arbitration Agreement/Clause	387
III.	The Philippines as the Place of Arbitration	390
	A. Law Applicable to the Proceedings.....	390
	B. Law Applicable to the Merits.....	391
IV.	Consequences of Philippine Law as the Law Applicable to the Proceedings	393
	A. Enforcement of the Arbitration Agreement.....	393
	1. Binding Effect of Arbitral Agreements	393
	2. Petition to Compel Arbitration	395
	3. Ex Parte Proceedings	397
	B. Establishment of the Arbitral Tribunal.....	398
	1. Number of Arbitrators	398
	2. Role of the Arbitrators	399
	3. Manner of Appointment.....	400
	4. Qualifications.....	402
	5. Disclosure	403
	6. Challenge and Replacement.....	404
	7. Jurisdiction and Competence	406
	8. Interim Measures of Protection.....	408
	9. Code of Ethics.....	409
	C. Arbitration Proceedings Proper	411
	1. Commencement	412
	a. Basic Pleadings	412
	b. Contents of the Submission Agreement or Request for Notice of Arbitration.....	413
	c. Answer and Counterclaim	414
	d. Reply	416
	2. Statements of Claim and Defense.....	416
	3. Written and/or Oral Proceedings	417
	4. <i>Lis Alibi Pendens</i>	418
	5. Interim Measures of Protection.....	420

D.	The Arbitral Award	421
1.	Time Limits	421
2.	Content and Form	422
3.	Voting	423
4.	Award by Consent	424
E.	Participation of Foreign Lawyers	424
F.	Fees	425
V.	Enforcement and Execution of Arbitral Awards	426
A.	Enforcement of Awards in Domestic Arbitration	426
B.	Enforcement of Awards in International Commercial Arbitration in the Philippines	428
1.	Definition of International Commercial Arbitration... ..	428
2.	Procedure	430
C.	Enforcement of Foreign Awards	432
1.	Application of the New York Convention	432
2.	Enforcement of Convention Awards	435
3.	Enforcement of Non-Convention Awards	438
D.	Judicial Remedies against Enforcement and Execution... ..	439
1.	Domestic Arbitral Awards	439
a.	Vacating the Award	441
b.	Modifying or Correcting the Award	443
c.	Appeal	444
d.	Special Civil Action for Certiorari	446
2.	International Commercial Arbitral Awards	447
a.	Setting Aside the Award	447
b.	Appeal	449
c.	Special Civil Action for Certiorari	450
3.	Foreign Arbitral Awards	451
a.	Grounds to Refuse (or Oppose the) Recognition and Enforcement under the New York Convention	452
b.	Appeal and Special Civil Action for Certiorari... ..	454
c.	Philippine Jurisprudence on Enforcement of Foreign Arbitral Awards	455
E.	Other Means of Judicial Interference and Review	461
VI.	Conclusion	463

Chapter 12

Arbitration in Singapore

I.	Introduction.....	465
II.	The Legal Framework for International Arbitration in Singapore	469
	A. Applicable Laws.....	469
	B. The Role of Courts	471
	C. Form of Arbitration Agreements.....	476
	D. Arbitrability of Claims	477
	E. Selection of and Challenge to Arbitrators	478
	F. Place and Language of Arbitration.....	479
	G. Conduct of Proceedings	480
	H. Issuance and Correction of the Arbitral Award.....	482
	I. Local Practice and Licensing Requirements for Foreign Lawyers	482
	J. Arbitral Choice of Law, <i>Lex Mercatoria</i> and <i>Amiable Composition</i>	484
	K. Interim Measures, Costs etc.	485
III.	Arbitration Practice in Singapore.....	486
	A. Arbitration Institutions	486
	B. The Arbitrator as Mediator/Conciliator.....	488
	C. Ethics of Arbitrators and Rules of Professional Responsibility.....	489
	1. Ethics	489
	2. Immunity.....	490
	D. Particular Features of Arbitration in Singapore.....	491
IV.	Enforcement of Arbitral Awards	492
	A. Awards Made in Singapore	492
	1. Awards Made under the Arbitration Act	492
	2. Awards Made under the International Arbitration Act	493
	B. Awards Made outside Singapore.....	495
	C. Enforcement of Arbitral Awards as Judgments	499
	1. Suing at Common Law	499

2.	Reciprocal Enforcement of Commonwealth Judgments Act (RECJA)	500
3.	Reciprocal Enforcement of Foreign Judgments Act (REFJA)	500
4.	Arbitration (International Investment Disputes) Act....	500
5.	Means of Enforcement of a Judgment	500
V.	Conclusion	501

Chapter 13

Arbitration in Taiwan, the Republic of China

I.	Introduction.....	503
A.	Taiwan's Legal and Dispute Resolution Tradition.....	505
II.	Arbitration Practice in Taiwan.....	507
A.	Arbitration Institutions	507
B.	Ad Hoc Arbitration.....	508
III.	The Legal Framework for International Arbitration in Taiwan	509
A.	Applicable Laws.....	509
B.	The Role of Courts	510
C.	Form and Scope of Arbitration Agreements	510
D.	Arbitrability of Claims	513
1.	Validity of Intellectual Property Rights.....	513
2.	Antitrust and Unfair Competition	514
3.	Consumer Protection	514
4.	Securities Regulation	515
5.	Employment Claims	515
E.	Selection of and Challenge to Arbitrators	516
1.	The Selection of Arbitrators	516
2.	Availability of Qualified Arbitrators	518
3.	Challenge to Arbitrators.....	518
F.	Place and Language of Arbitration.....	520
G.	Conduct of Proceedings	521
H.	Issuance and Correction of the Arbitral Award.....	522
1.	Issuance of the Arbitral Award	522
2.	Correction of the Arbitral Award.....	522

I.	Other Key Features.....	523
	1. Choice of Law.....	523
	2. Amiable Compositeur.....	523
	3. Interim Measures.....	524
	4. Costs.....	525
	5. Logistics.....	526
	6. Neutrality.....	526
IV.	Enforcement of Arbitral Awards.....	527
	A. General Structure of Enforcement.....	527
	B. Enforcement and Setting Aside of Domestic Awards.....	528
	1. Annulment of Arbitral Awards.....	528
	C. Enforcement of Foreign Arbitral Awards.....	530
V.	Conclusion: The Future of International Arbitration in Taiwan.....	534

Chapter 14

Arbitration in Thailand

I.	Introduction.....	537
II.	The Legal Framework for International Arbitration in Thailand.....	540
	A. Applicable Laws.....	540
	1. Overview.....	540
	2. Relationship between the <i>Lex Arbitri</i> and the Arbitration rules.....	541
	3. Key International Treaties and Conventions.....	542
	B. Choice of Law in Arbitration Proceedings.....	542
	1. Substantive Law.....	542
	2. Proof of Foreign Law.....	542
	3. Procedural Law.....	543
	4. Law Governing the Arbitration Agreement.....	543
	5. Choice of Transnational Law.....	543
	C. Form and Scope of Arbitration Agreements.....	544
	1. Requirements for a Valid Arbitration Agreement.....	544
	2. Legal Capacity.....	544

D. Arbitrability of Claims	545
1. General Position.....	545
2. Special Cases	545
E. Selection of and Challenge of Arbitrators.....	546
1. Constituting the Tribunal.....	546
a. Number of Arbitrators.....	546
b. Appointment of Arbitrators.....	547
c. Choice of Arbitrators.....	548
2. Challenge and Replacement of Arbitrators.....	548
F. Place and Language of Arbitration.....	549
1. Place of Arbitration.....	549
2. Language.....	549
G. Conduct of Proceedings	550
1. Introduction.....	550
2. Main Stages of the Arbitration.....	550
3. General Principles.....	551
a. Party Autonomy	551
b. Equality of Treatment.....	551
c. Right to be Heard	551
d. Default by a Party.....	551
4. Preliminary Meeting	552
5. Documents	552
6. Witnesses	553
a. Factual Witnesses.....	553
b. Expert Witnesses.....	553
7. Interlocutory Applications	554
8. The Hearing	554
9. Confidentiality	555
H. Interim Measures.....	555
1. Interim Measures from the Arbitral Tribunal	555
a. Available Interim Measures and Related Orders	555
b. Procedure and Applicable Tests.....	556
2. Court Assistance	556
3. Court Assistance in Aid of Foreign Arbitrations	557
I. Issuance and Correction of the Arbitral Award.....	558
1. Issuance of Award	558
2. Correction of Award	558

J.	Costs	559
1.	Categories of Costs Incurred.....	559
2.	Allocation of Costs	560
a.	Applicable Principles	560
b.	Procedure and Taxation.....	560
III.	Arbitration Practice in Thailand	561
A.	Arbitration Institutions	561
1.	Leading Arbitral Institutions.....	561
2.	Leading Arbitration-related Organisations	562
3.	Popular Foreign Arbitral Institutions	562
B.	Role of Conciliation	562
1.	Attitude towards Alternative Dispute Resolution	562
2.	Settlement	563
IV.	Enforcement of Arbitral Awards	563
A.	Setting Aside/Challenging Awards	563
1.	Overview.....	563
2.	Setting Aside.....	564
a.	Procedure.....	564
b.	Scope.....	564
B.	Recognition and Enforcement of Awards	565
1.	Overview.....	565
2.	Awards Made in Thailand.....	565
a.	Procedure and Timeline	565
b.	Grounds for Refusing Recognition and Enforcement	566
3.	Foreign Awards	567
a.	Overview	567
b.	Grounds for Refusing Recognition and Enforcement	567
c.	Recognition and Enforcement—in Practice	567
V.	Conclusion	568

Chapter 15**Arbitration in Vietnam**

I.	Introduction.....	569
II.	The Legal Framework for International Arbitration in Vietnam.....	571
	A. Applicable Laws	571
	B. The Role of Courts	572
	C. Forms and Scope of Arbitration Agreement	574
	D. Validity of Arbitration Agreements	575
	E. Arbitrability of Claims	576
	F. Selection and Challenges to Arbitrators.....	578
	1. Selection of Arbitrators.....	578
	2. Challenges to Arbitrators.....	580
	G. Place and Language of Arbitration.....	581
	H. Conduct of Proceedings	581
	I. Interim Measures.....	583
	J. Issuance and Correction of Arbitral Awards.....	585
III.	Arbitration in Practice.....	585
IV.	Enforcement of Arbitral Award.....	587
	A. General Structure of Enforcement.....	587
	1. Domestic Arbitral Awards.....	588
	2. Foreign Arbitral Awards.....	588
	B. Setting Aside Arbitral Awards	589
	1. Domestic Awards.....	589
	2. Foreign Awards	590
	Index.....	595