

World Arbitration & Mediation Report



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HIGHLIGHTS

The **White & Case Arbitration Practice Group** provides an account of recent changes in **Chinese arbitration law**. The Supreme People's Court, in its **2006 Interpretation**, has clarified certain aspects of PRC arbitration law. The 2006 Interpretation applies to arbitration generally and does not distinguish, for the most part, between domestic arbitrations and foreign-related and foreign arbitrations. Generally, the interpretation requires the parties to clearly state their intent to arbitrate and the scope of their reference. They must also designate an administering Arbitral institution. (Story begins on page 392.)

Jane Wessel and **Peter J. Eyre** of Crowell & Moring (London and Washington, D.C.) describe the significance of the recent ruling in *Oxus Gold PLC*. There, a federal district court in New Jersey held that an investment arbitral tribunal could have recourse to **28 U.S.C. § 11782** as a **"tribunal" to judicial assistance** in aid of **discovery**. The ruling appears to conflict with prior cases, although the court accommodate the difference with precedent by distinguishing between private commercial arbitration and investment arbitration. The authors conclude: "[T]here is

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no reason to believe that the United States legislature intended to limit the availability of section 1782 discovery to certain types of arbitration. This is especially so where investment arbitration of the type involved in *Oxus Gold*...did not yet exist at the time of the enactment of section 1782...There is no principled reason why the term **'tribunal'** should

be... inapplicable to private commercial arbitration." (The *Commentary* piece begins on page 397.)

Lawrence W. Newman and **David Zaslowsky** of the **Baker & McKenzie** law firm write about the effect of **manifest disregard of the law on international arbitration**. They conclude that recent case law indicates that that ground for judicial supervision might lead to the merits review of international arbitral awards by U.S. courts. (The *Commentary* piece begins on page 397.)

The **National Arbitration Forum (NAF)** Case Summaries cover the most recent developments in U.S. arbitration law, including the use of *Kaplan*, *kompetenz-kompetenz*, class action waivers, federal preemption, mutuality of the obligation to arbitrate, internet arbitration agreements, nonsignatories and arbitration, manifest disregard of the law, and venue. (The *NAF Case Summaries* begin at 384.)

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