

**FOREIGN-RELATED
ARBITRATION
IN CHINA**

COMMENTARY AND CASES

FAN YANG

Foreign Related Arbitration China Fan Yang

Junmin Zhang



Foreign Related Arbitration China Fan Yang:

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Foreign-related Arbitration in China Fan Yang, 2016 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

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

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 arbitrator 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

Stockholm Arbitration Yearbook 2019 Axel Calissendorff, Patrik Schöldström, 2019-08-14 Each year Stockholm is the arbitration seat of choice for numerous parties endeavouring to resolve international disputes It is the second most used venue for investment disputes and it is often the venue for disputes arising from the Energy Charter Treaty This new annual publication launched under the auspices of the Stockholm Centre for Commercial Law is designed to meet the information needs of arbitration practitioners and parties from all over the world This first issue provides authoritative articles some of them with a Swedish angle that address current matters of global concern in arbitration including the following multi appointment bias cross examination and advocacy in arbitration due process paranoia or prudence robots as arbitrators security for costs and third party funding in investment arbitration and the Arbitration Station podcast Recent developments in Swedish arbitration related case law are summarized The 2019 changes in the Swedish Arbitration Act are presented The Yearbook provides both perspective and detailed analyses that will be welcomed by arbitration practitioners counsel and judges deciding arbitration cases It will also prove valuable insights for arbitration academics in house counsel at multinational companies and arbitral institutions worldwide

The Plurality and Synergies of Legal Traditions in International Arbitration Nayla Comair Obeid, Stavros Brekoulakis, 2024-02-20 The cultural diversity characterizing international arbitration today is as much a source of enrichment as it is sometimes a source of practical difficulties affecting both the arbitration procedure and the application of substantive law Consequently it is becoming clearer that the critical project for international arbitration in the immediate future will be how to best answer the fundamental question of cultural pluralism This book presents an informative and well argued discussion on many aspects of international arbitration clarifying the main procedural and substantive similarities and differences between different legal systems around the world focusing not only on common and civil law traditions but also the role played by regional legal traditions including Islamic law and African perspectives With contributions from fifty arbitrators counsel and academics representing every region of the world where international arbitration has secured a foothold the volume consolidates and synthesizes a series of discussions sponsored by the Chartered Institute of Arbitrators that took place in Dubai Johannesburg and Paris in 2017 The

essays identify and address the cultural distinctions that affect the key ever present factors which have forged the character of modern international arbitration such as the following the seat of the arbitration and the legal regime to which the arbitration is attached due process which has different and specific meanings in different national legal systems international standards such as international public policy illegality arbitrability and sanctions the immunity of international arbitrators form of presentation of evidence production of documents oral and written submissions and expert evidence the specific context of international investment arbitration disputes in specific industries or legal areas telecommunications construction mining intellectual property the role of national judges and the legal traditions they embrace throughout and after arbitration proceedings how to incorporate more conciliatory cultural traditions which are notably shared in many African and Asian countries and training and opportunities for the next generation in international arbitration The book is replete with tools and recommendations to ensure synergy and harmony between the different legal traditions that coexist in today's arbitral proceedings All users of arbitration whether the arbitrators themselves lawyers involved as counsel for parties or judges applying arbitration law will greatly appreciate this matchless elucidation of the different systems and alternative ways of presenting the divergent procedures and ways of conducting international arbitrations The book's immeasurable value to arbitration academics goes without saying

International Arbitration in Times of Economic Nationalism Bjorn Arp, Rodrigo Polanco, 2022-07-06 Numerous developments across the world in recent years bear witness to States increasing skepticism about the benefits of international cooperation and the efficiency of international economic law understood as a multilateral set of rules equally binding on all States This timely book reviews situations where this new economic nationalism may impact the way arbitration in both commercial and investment disputes is practiced Distinguished international arbitrators and academic experts analyze a wide array of topics covering a broad spectrum of juristic traditions geographic areas foreign investment protection laws and dispute resolution mechanisms and issues Topics covered include the following evolution of the definitions of arbitrable standards amendments to procedural rules States policy choices as reflected in recent investment treaties procedural trends to restrict access to investment arbitration the effects of the Achmea decision in the European Union growing use of the public policy exception dispute settlement of public private partnership agreements and diversification of dispute resolution methods e.g. business courts An important feature of the book is the ability it offers to compare various contemporary transformations of dispute settlement mechanisms with attention to developments in a number of jurisdictions including the United States the European Union China Canada Switzerland Turkey and the Latin American countries With its comprehensive analysis of how economic nationalism may lead to limiting the jurisdictional procedural and substantive scope of arbitration the authors underscore the crucial importance of a robust system of international arbitration of economic disputes to ensure a stable and secure world order The global coverage of the contributions and the insightful views offered in them speak eloquently about their usefulness and outreach

for arbitration practitioners and scholars as well as for professionals involved in drafting policies for economic development or in the negotiation of investment agreements Contracts in the People's Republic of China Jacques H.

Herbots,2018-03-12 A complete and well documented review of contract law in China This in depth introduction to the law of contracts of Mainland China was written for Western lawyers who have contacts with the People s Republic of China for scholars and students of comparative law or of Sinology As stated above the book is merely an introduction not a technical legal treatise for specialised private lawyers It is therefore useful for businessmen too Without using stale language this work also places the law of contractual obligations in an historical and socio political context It sketches besides the general theory of contractual obligations and the provisions on the several specific contracts the Chinese case law on international sales contracts as well as the law on the dispute resolution It can be said that with regard to the private law the book opens a window on the continental Chinese legal culture as Zweigert and Kötz would call it An essential handbook for all lawyers who wish to be fully involved in international relationships ABOUT THE AUTHOR Jacques H Herbots devoted his PhD thesis to African law Thereafter for many years he taught contracts obligations and comparative law at the renowned university of Louvain Besides his main tasks as a professor he kept feeling the pulse of the living law as a deputy judge as an assessor in the Belgian Council of State and as a member of the High Council for the Judiciary He is currently still arbitrator in the Belgian Centre for Arbitration and Mediation and he was appointed to the panel of the CIETAC in Beijing Ever since a visit to the People s Republic in 1974 one may safely say he has been fascinated by the Empire of the Middle **The Cambridge**

Handbook of Comparative Law Mathias Siems,Po Jen Yap,2024-02-01 Comparative law is a common subject matter of research and teaching in many universities around the world and the twenty first century has aptly been termed the era of comparative law This Cambridge Handbook of Comparative Law presents a truly global perspective of comparative law today The contributors are drawn from all parts of the world to provide different perspectives on how we understand the law and how it operates in practice In substance the Handbook contains 36 chapters covering a broad range of topics divided under the following headings Methods of Comparative Law Part I Legal Families and Geographical Comparisons Part II Central Themes in Comparative Law Part III and Comparative Law beyond the State Part IV **Mergers & Acquisitions in China**

Lutz-Christian Wolff,2008 Author Lutz Christian Wolff of the Chinese University of Hong Kong discusses various aspects of M A in their practical context particularly drawing out hidden intricacies and how to deal with them from the viewpoint of foreign investors The book head on topics such as due diligence structuring options M A activity by diverse players in various targets as well as anti trust tax and labour issues Includes comprehensive references and bilingual versions of the most important M A related laws and regulations that will turn savvy foreign investors into more astute dealmakers While the central government has somewhat revamped opaque regulations Mergers Acquisitions in China Law and Practice lends needed clarity by providing a structured introduction to the legal aspects of China s M A regime **International**

Arbitration Hong Kong International Arbitration Centre (HKIAC), 2019-01-17 On the occasion of his 75th birthday Neil Kaplan's unparalleled influence in the field of international arbitration is celebrated in this book which comprises contributions from over twenty five renowned international arbitration practitioners all of whom credit Kaplan as having impacted the development of arbitration in their respective jurisdictions or professionally The book is constructed as a three part compendium as follows the Kaplan Lectures an annual series established to bring some of the best minds in international arbitration to Hong Kong to address current and practical issues key decisions and arbitration awards rendered by Kaplan with commentaries that make current the issues arising out of these judgments and also provide an in depth analysis of important issues emanating from his treaty arbitration awards articles showcasing the reach of Kaplan's influence through reflections by several of his former assistants who are now making a mark in their own right in the international arbitration community Arbitration practitioners will welcome this book for its practical analysis of some of the most discussed and debated hot issues in arbitration law and practice today In addition the commentaries on Kaplan's key decisions offer especially insightful guidance for practitioners academics and students in the field of international arbitration

The Peaceful Settlement of Inter-State Cyber Disputes Nicholas Tsagourias, Russell Buchan, Daniel Franchini, 2024-11-14 With cyberspace becoming a domain of inter state conflict and confrontation this book is one of the first studies of the ways in which international law can facilitate the peaceful settlement of inter state cyber disputes By employing theoretical and practical inquiries and analysis the book examines the legal parameters of cyber dispute settlement explores critical questions about the role of dispute settlement institutions and methods and identifies and addresses related challenges The book begins by considering the legal definition of a cyber dispute and the scope of the good faith obligation of states in settling their cyber disputes peacefully It then examines the role of certain institutions International Court of Justice national courts the EU the Security Council and methods judicial diplomatic countermeasures arbitration conciliation fact finding in the settlement of cyber disputes It also discusses how data disputes can be settled and whether new and specialised mechanisms are needed The book provides scholars practitioners and law students with immediate knowledge and understanding of the role of international law in the peaceful settlement of cyber disputes as well as how international dispute settlement as a discipline and practice can apply to this new field

The Rule of Law Guiguo WANG, Fan YANG, 2013-10-01 This Festschrift has attracted contributions from not only his colleagues but also a number of world renowned scholars who wished to convey through their contributions their enormous respect for his scholarship leadership and gentlemanly bearing The Rule of Law a Comparative Perspective has been chosen the theme of this Festschrift because it is one of the most important topics in the area of constitutional and administrative law about which Professor COORAY has researched and written extensively Published by City University of Hong Kong Press

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 *China's Globalization and the Belt and Road Initiative* Jean A. Berlie, 2019-09-14 This book explains the importance of globalization and the Belt and Road Initiative which is one of the essential projects of President Xi Jinping and where China fits on the global arena Additionally the contributors cover such important topics as China s maritime traffic infrastructure along the modern Silk Road the South China Sea and China s relationship with Indonesia Malaysia East Timor Hong Kong and Macao This edited volume will interest scholars researchers and students in the fields of Asian studies globalization political science and Chinese politics *The UN Convention on Contracts for the International Sale of Goods* Clayton P. Gillette, Steven D. Walt, 2016-05-10 Serving the needs of both students and experts this book evaluates the CISG through economic theory and legal doctrine **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

The Voice from China An CHEN, 2014-07-08 In short the 24 selected and representative articles written in English by the author over the past 30 odd years mainly published in international leading journals and now collected and compiled in this monograph could be deemed the products of international academic debates They record reflect and embody the author s personal views on a number of contemporary basic issues in international economic law 2 Great Debates on Contemporary Economic Sovereignty 3 China s Strategic Position on Contemporary International Economic Order Issues 4 Divergences on Contemporary Bilateral Investment Treaty 5 Contemporary China s Legislation on Sino Foreign Economic Issues and 6 Contemporary Chinese Practices on International Economic Disputes Case Analysis

China's Coercion of States in the Asia-Pacific Region Maximilian Ernst, 2025-02-11 This book explains why China chooses to coerce Asia Pacific regional states despite the risk of such actions creating a backlash and complicating its strategic calculus China s coercion of neighboring states often a variation of heavy informal economic sanctions combined with diplomatic pressure and gray zone coercive measures has been increasingly observable in the past decade It has become an important tool in China s foreign policy toolbox and is frequently used by Beijing to shape the security political environment of the Asia Pacific The book begins with an appreciation of China s complicated geopolitical exposition and an understanding that such coercion creates backlash since the target state will likely be alienated and pushed into closer

security cooperation with the United States China's main geopolitical rival Through two in depth case studies of Chinese coercion targeting the Philippines and South Korea respectively the book demonstrates that first the reason China coerces is that the secondary state engages in actions that fundamentally threaten China's security interests and second it will coerce these states only if other policy options geared to change the secondary state's course of action have not worked Employing balance of power theory and particularly wedge strategies the book solves a pertinent research question and improves our knowledge of contemporary security politics in the Asia Pacific This book will be of interest to students scholars and practitioners of Asia Pacific security Chinese foreign policy and international relations

Chinese Private International Law Xiaohong Liu,Zhengyi Zhang,2021-04-22 Written with the assistance of a team of lecturers at the Shanghai University of Political Science and Law this book is the leading reference on Chinese private international law in English The chapters systematically cover the whole of Chinese private international law not just questions likely to arise in commercial matters but also in family succession cross border insolvency intellectual property competition antitrust and environmental disputes The chapters do not merely cover the traditional conflict of law areas of jurisdiction applicable law choice of law and enforcement They also look into conflict of law questions arising in arbitration and assess China's involvement in the harmonisation of private international law globally and regionally within the Belt and Road Initiative Similarly to the Japanese and Indonesian volumes in the Series this book presents Chinese conflict of laws through a combination of common and civil law analytical techniques and perspectives providing readers worldwide with a more profound and comprehensive understanding of Chinese private international law

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