

Kluwer Arbitration Blog

The Contents of the Asian International Arbitration Journal, Volume 15, Issue 1

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The contents of this issue of the journal is now available and includes the following contributions:

[Eunice Chua, 'Enforcement Of International Mediated Settlement Agreements In Asia: A Path Towards Convergence'](#)

In 2014, the United Nations Commission on International Trade Law ('UNCITRAL') first considered a proposal for the development of a multilateral convention on the enforceability of international commercial settlement agreements reached through conciliation (defined to include mediation). The goal of this project was to encourage international mediation in the same way that the New York Convention facilitated the growth of arbitration. The work of UNCITRAL Working Group II has resulted in two instruments – the Singapore Convention on Mediation; and Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation. In Asia, where continued growth of cross-border trade is expected, the potential for these UNICTRAL instruments to facilitate the resolution of cross-border commercial disputes and support economic growth is immense. With a focus on jurisdictions such as China, India, Hong Kong and Singapore, this article discusses the convention and amended model law, and examines how far down Asia is on the path towards convergence in the enforcement of international mediated settlement agreements.

[Stavroula Angoura, 'Arbitrator's Impartiality under Article V\(1\)\(D\) of the New York Convention'](#)

An arbitrator's lack of impartiality provides grounds for non-recognition of a foreign or non-domestic arbitral award under Article V(1)(d) of the New York Convention where the parties' agreement or the law of the arbitral seat required impartial arbitrators. This contribution examines the structure and content of Article V(1) (d) of the New York Convention through the lens of arbitrator's alleged bias. In the vast majority of such cases, courts have rejected objections to recognition under Article V(1)(d), including on grounds of waiver. Complaints about the qualification of an arbitrator's impartiality must be invoked initially during the arbitration proceedings. The party cannot resist the enforcement on the grounds of irregular composition of the arbitral tribunal, in cases where it participated in the arbitral proceedings without objection or

failed to exhaust all legal remedies at the seat of arbitration within the time limits prescribed by the applicable national law. Complicated issues arise when there is conflict between parties' agreed composition as to the qualification of impartiality of the tribunal and mandatory law of the arbitral seat. The effect of bias on the arbitral award or the issue of waiver are also taken into consideration by the courts when assessing the defence of the irregular composition of the arbitral tribunal.

Judy Li Zhu, 'Time to Loosen up on Ad Hoc Arbitration in China?'

While ad hoc arbitration is accepted in most jurisdictions as a non-institutional form of arbitration, the Chinese Arbitration Act does not recognize ad hoc arbitration and judicial practice shows a clear pro-institutional arbitration stance. A recent judicial opinion permitting ad hoc arbitration among enterprises incorporated within pilot free trade zones in China re-ignited some interest in formalizing its use. This article discusses the desirability and possibility of such a move.

The issue also includes two book reviews. [Low Pou Leen](#) has reviewed the 'Handbook of ICC Arbitration (4th Edition): Commentary and Materials', by Thomas H. Webster & Michael W. Bühler (Sweet & Maxwell, 2018). [Piergiuseppe Pusceddu](#) has reviewed 'The Liability of Arbitral Institutions: Legitimacy Challenges and Functional Responses', by Barbara Alicja Warwas (T.M.C. Asser Press, The Hague, 2016).

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