

Arbitration procedures and practice in Japan: overview

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A Q&A guide to arbitration law and practice in Japan.

The country-specific Q&A guide provides a structured overview of the key practical issues concerning arbitration in this jurisdiction, including any mandatory provisions and default rules applicable under local law, confidentiality, local courts' willingness to assist arbitration, enforcement of awards and the available remedies, both final and interim.

To compare answers across multiple jurisdictions visit the *Arbitration procedures and practice Country Q&A Tool*.

This Q&A is part of the global guide to arbitration. For a full list of jurisdictional Q&As visit www.practicallaw.com/arbitration-mjg.

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Use of arbitration and recent trends

1. How is commercial arbitration used and what are the recent trends?

Use of commercial arbitration

Arbitration is not yet a popular method of resolving domestic disputes between Japanese companies in Japan, except in specific areas such as certain construction and maritime transactions. Litigation in court is still the preferred method of dealing with disputes. In the 2014 financial year, the Japan Commercial Arbitration Association (JCAA) handled 43 cases, of which 14 were new cases and 29 were carried forward from previous years, while the district court in Japan received 166,456 cases.

Most of the situations in which Japanese companies agree to use arbitration involve foreign companies. This is because an arbitration award may be executed abroad in accordance with the New York Convention, to which Japan is a contracting state. Rather than using the JCAA, parties to cross-border agreements tend to choose the jurisdiction of major internationally recognised arbitration centres, such as the American Arbitration Association (AAA), the International Court of Arbitration and the International Chamber of Commerce (ICC) or the Singapore International Arbitration Centre (SIAC).

Japanese companies usually choose court litigation over arbitration, even in matters of international trade, and the Tokyo District Court is the preferred jurisdiction. However, when Japanese companies agree to use commercial arbitration in Japan, they generally choose the JCAA as the forum for general commercial cases. The JCAA is the Japanese equivalent of the AAA, the London Court of International Arbitration or the ICC, which Japanese parties also use occasionally.

Recent trends

While arbitration is comparatively rare in Japan, the number of arbitration matters handled by the JCAA is growing, along with a steady increase in international business activities among Japanese companies. Many local bar associations in Japan have set up arbitration centres, and some prominent practitioners in Japan are also proposing the establishment of a new international arbitration organisation in Japan. The Japan Association of Arbitrators (JAA) is raising funds to increase its support for the activities of arbitrators in Japan.

Advantages/disadvantages

The Japanese Arbitration Law (Law No.138 of 2003) (Arbitration Law) is based on the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration (1985) (UNCITRAL Model Law) and the Japanese courts respect the broad discretion of arbitrators. Therefore, Japanese arbitration procedures may be more familiar to foreign parties than those of the Japanese court litigation system, which can make arbitration appear to offer a more fair and neutral process than civil litigation. Also, as Japan is a contracting state to the New York Convention, arbitration awards are enforceable outside Japan. Arbitration also has a number of attractive features, such as procedural flexibility, including the parties' ability to choose the arbitrators.

On the other hand, there are some disadvantages to arbitration. For example, there is no enforceable preservation of evidence procedure in arbitration although, in some cases, Japanese courts may support the process by allowing the preservation of evidence before or during the arbitration procedure. Another feature that can be both attractive and difficult is that arbitration awards cannot generally be appealed. This usually helps to make the procedure come to a relatively swift resolution, but there is very little room for redress when things do not go as they should. Despite its advantages, arbitration also tends to cost much more than court procedures.

Legislative framework

Applicable legislation

2. What legislation applies to arbitration? To what extent has your jurisdiction adopted the UNCITRAL Model Law on International Commercial Arbitration 1985 (UNCITRAL Model Law)?

The Arbitration Law governs arbitration procedures in Japan related to both domestic and foreign matters. Proceedings that courts conduct under the Arbitration Law are governed by the Supreme Court Rules on Procedures of Arbitration Related Cases (Rules of the Supreme Court No.27 of 2003).

The Arbitration Law basically follows the UNCITRAL Model Law, with some amendments to ensure consistency with other Japanese regulations or to address social changes over the intervening years, such as technological changes. For example, arranging a settlement by arbitral tribunal is allowed only with the consent of both parties (*Article 38, Arbitration Law*). This is because settlement is broadly recognised in Japan as a dispute resolution method, and the practices and procedures of Japanese courts were designed based on this. However, as the Japanese arbitration practices before the revision of the Arbitration Law could sometimes be puzzling to foreign parties, the Arbitration Law requires the explicit consent of both parties to settlement in the arbitration procedures.

Mandatory legislative provisions

3. Are there any mandatory legislative provisions? What is their effect?

In principle, most matters relating to the arbitration procedure, including jurisdiction, the appointment of the arbitrator(s), and arbitration rules or standards, can be agreed between the contracting parties. However, some of the Arbitration Law provisions are mandatory and require arbitration procedure to follow the court's jurisdiction, such as:

- Court intervention (*Article 5*).
- The written form of the arbitration agreement (*Article 13*).
- The equal treatment of all parties (*Article 25*).

Even if an arbitration agreement mistakenly violates these mandatory provisions, in general, the non-violating provisions can still be considered valid, but an arbitration award reached in violation of the mandatory provisions could potentially be revoked by a court if a party makes a claim.

4. Does the law prohibit any types of disputes from being resolved via arbitration?

All civil disputes that private parties can settle can also be resolved through arbitration, except divorce or separation cases (*Article 13 (1)*). However, an arbitration agreement between a consumer and a company may be cancelled (*Article 3, supplementary provision to the Arbitration Law*). An arbitration agreement between an employee and their employer in relation to labour disputes will also be considered invalid (*Article 4, supplementary provision to the Arbitration Law*).

Limitation

5. Does the law of limitation apply to arbitration proceedings?

The statutory limitation (prescription) on most claims governed by the Civil Code of Japan is ten years. There are other types of claims with a shorter limitation period, such as the five-year limitation period for claims governed by the Commercial Code of Japan. Most claims under arbitration proceedings would be governed by this five-year limitation period. The limitation period is interrupted by the filing of an arbitration. However, if the arbitration procedure is terminated other than by an arbitral award, the limitation period recommences.

Arbitration organisations

6. Which arbitration organisations are commonly used to resolve large commercial disputes?

The following organisations are the largest and most commonly used arbitration centres that are able to deal with large cases:

- Japan Commercial Arbitration Association (JCAA).
- International Chamber of Commerce (ICC). Although this is not a Japanese organisation, the venue for its proceedings is often in Japan.
- Tokyo Maritime Arbitration Commission of Japan Shipping Exchange, Inc. (TOMAC).
- Committee for Adjustment of Construction Work Disputes.

However, most large commercial cases are usually dealt with by the courts in Japan.

(See box *Main arbitration organisations*).

Most Japanese parties agree on court litigation as their preferred dispute resolution method, even in contracts with some international component (see *Question 1*).

In the case of contracts with a foreign entity, however, it is not uncommon for parties to specify the JCAA or another major overseas arbitration centre such as the ICC, the SIAC or the Hong Kong International Arbitration Centre (HKIAC).

Jurisdictional issues

7. What remedies are available where one party denies that the tribunal has jurisdiction to determine the dispute(s)? Does your jurisdiction recognise the concept of kompetenz-kompetenz? Does the tribunal or the local court determine issues of jurisdiction?

Arbitral tribunals can address issues of whether they have jurisdiction before starting the arbitration procedure (*Article 23(1)*). However, once an arbitral tribunal decides that it has jurisdiction, a party can still ask a court for judicial review (*Article 23(5)*). Any judicial review will not necessarily interrupt the arbitral procedure.

Arbitration agreements

Validity requirements

8. What are the requirements for an arbitration agreement to be enforceable?

Substantive/formal requirements

For an arbitration agreement to be valid, the Arbitration Law requires that the agreement is stated clearly in a document signed by all the parties, including by fax or email. The object of the arbitration must be a civil dispute that may be resolved by settlement between the parties (see *Question 4*).

Separate arbitration agreement

A separate arbitration agreement is not required; a clause in the main contract is sufficient.

An arbitration clause incorporated into a contract only by reference to another document is also enforceable to resolve disputes arising under the contract (*Article 13(3)*).

Unilateral or optional clauses

9. Are unilateral or optional clauses, where one party has the right to choose arbitration, enforceable?

The Arbitration Law does not refer directly to unilateral or optional clauses, but these kinds of clauses can be invalidated by a court because they do not represent a final solution under Japanese law, and so do not satisfy the requirements for an arbitration agreement under the Arbitration Law (see *Question 8*).

10. In what circumstances can a third party that did not sign the contract incorporating the arbitral clause in question be compelled to arbitrate disputes relating to the contract in question?

In principle, arbitration matters do not affect third parties that did not sign the contract incorporating the arbitral clause because the Arbitration Law requires the parties to agree in writing to arbitration. Therefore, the parent company of contracting entities, as well as their respective subsidiaries, directors and employees, would not in principle be compelled to arbitrate. However, a third party that can be considered to be the same entity as the party that agreed on the arbitral clause under general law, such as a successor or assignee, can be compelled to arbitrate the dispute.

11. In what circumstances is a third party that did not sign the contract incorporating the arbitral clause in question entitled to compel a party that did sign the contract to arbitrate disputes relating to the contract?

In principle, arbitration matters do not affect third parties that did not sign the contract incorporating the arbitral clause because the Arbitration Law requires the parties to agree in writing to arbitration. In practice, this situation would be resolved through consultation and agreement among the parties in dispute, the arbitrators and the third party on a case-by-case basis, but if a consensus is not reached, the third party generally cannot compel the related parties signing the contract to arbitrate disputes.

Separability

12. Does the applicable law recognise the separability of arbitration agreements?

The Arbitration Law mentions the principle of the separability of arbitration clauses, but that does not mean that the principle will apply in every situation (*Article 13(6)*). For example, if the main agreement is one in which a party is criminally forced to contract, the attached arbitration agreement would, theoretically, be considered to be invalid or revocable.

Breach of an arbitration agreement

13. What remedies are available where a party starts court proceedings in breach of an arbitration agreement or initiates arbitration in breach of a valid jurisdiction clause?

Court proceedings in breach of an arbitration agreement

If court proceedings are initiated in breach of the arbitration agreement, the respondent may request that the court proceedings are dismissed (*Article 14(1)*). The court may dismiss the case but it may not refer the parties to the arbitration procedure, in accordance with the UNCITRAL Model Law. In addition, the arbitral tribunal may start the procedure and reach an arbitral award even before the court makes a decision (*Article 14(2)*).

Arbitration in breach of a valid jurisdiction clause

If arbitration is initiated in breach of a valid jurisdiction clause, the arbitration tribunal will generally terminate the arbitration procedure (*Article 23(4) (ii)*).

14. Will the local courts grant an injunction to restrain proceedings started overseas in breach of an arbitration agreement?

Under the Civil Provisional Remedies Law (Law No. 91 of 1989), local courts can issue an injunction to restrain proceedings started overseas but it will be almost impossible to enforce that injunction outside of Japan.

Joinder of third parties

15. In what circumstances can a third party be joined to an arbitration or otherwise be bound by an arbitration award?

In principle, an arbitration matter cannot affect third parties that did not sign the contract incorporating the arbitral clause, because the Arbitration Law requires the parties to agree in writing to arbitration (*see Question 8*). In practice, this is resolved through consultation and agreement among the parties in dispute, the arbitrators and the third party on a case-by-case basis.

Arbitrators

Number and qualifications/characteristics

16. Are there any legal requirements relating to the number and qualifications/characteristics of arbitrators? Must an arbitrator be a national of, or licensed to practice in, your jurisdiction in order to serve as an arbitrator there?

The parties can agree the number of arbitrators. Failing agreement, where there are two parties to the arbitration there will be three arbitrators and where there are three or more parties to the arbitration, the court will make the decision at the parties' request (*Article 16*).

The Arbitration Law does not require arbitrators to have any specific qualifications or characteristics. However, if the court appoints an arbitrator it must consider whether or not it would be appropriate to appoint an arbitrator of a different nationality from the parties (*Article 17 (6) (3)*).

The courts in Japan tend to recognise any contractually stipulated requirements for arbitrators based on nationality, religion or gender as a matter of autonomy, although the validity and enforceability of these types of requirements have yet to be judicially reviewed in Japan.

Independence/impartiality

17. Are there any requirements relating to arbitrators' independence and/or impartiality?

An arbitrator must be impartial to, and independent from, the parties. If the candidate arbitrators have doubts over their impartiality or independence, they must immediately disclose the relevant information or circumstances (*Article 18*). To examine impartiality and independence, practitioners in Japan often refer to the International Bar Association (IBA) Guidelines on Conflicts of Interest in International Arbitration (2014).

Appointment/removal

18. Does the law contain default provisions relating to the appointment and/or removal of arbitrators?

Appointment of arbitrators

In the case of arbitration agreements in which the parties have not agreed on the process for the appointment of arbitrators, or either party fails to comply with the agreed process for the appointment of its arbitrator, the court will appoint the required arbitrator(s) if requested by the relevant party (*Article 17*). In cases where there are two parties and three arbitrators are required, but the parties fail to agree on the process for the appointment of the arbitrators, the parties will each appoint one arbitrator, and those two arbitrators will then appoint the third arbitrator.

Removal of arbitrators

The arbitrator may be challenged where:

- The arbitrator does not possess the qualifications agreed by the parties.
- There is justifiable doubt in the circumstances as to the impartiality or independence of the arbitrator (*Article 18(1)*).

The parties may agree how to challenge an arbitrator (*Article 19(1)*). Failing such an agreement, the arbitral tribunal may decide on a challenge at the request of the challenging party (*Article 19(2)*). The parties may apply to court to remove an arbitrator in the case of an arbitrator's *de jure* or *de facto* inability or undue delay in performing arbitration duties (*Article 20*).

Procedure

Commencement of arbitral proceedings

19. Does the law provide default rules governing the commencement of arbitral proceedings?

The arbitral proceedings commence when one party gives the other party notice of the referral of the dispute to the arbitral proceedings (*Article 29(1)*). However, if the arbitration is conducted under the JCAA, the proceedings will commence when the arbitration is filed with the JCAA.

Applicable rules

20. What procedural rules are arbitrators likely to follow? Can the parties determine the procedural rules that apply? Does the law provide any default rules governing procedure?

Applicable procedural rules

The parties may agree the procedural rules to be applied in their arbitral tribunal, provided that the agreed procedures do not contradict the provisions of the Arbitration Law concerning public order (*Article 26*). Most arbitration organisations have their own rules (for example, JCAA has a comprehensive set of rules, JCAA Rules), so the applicable rules generally depend on the agreed arbitral organisation. With regard to evidence, the IBA Rules on the Taking of Evidence in International Arbitration (2010) are usually followed as a guide.

Default rules

If the parties do not agree on other rules or the rules of a particular arbitration organisation, the procedural rules under the Arbitration Law will be considered as the default rules.

Arbitrator's powers

21. What procedural powers does the arbitrator have under the applicable law? If there is no express agreement, can the arbitrator order disclosure of documents and attendance of witnesses (factual or expert)?

In principle, the procedural rules for the arbitration are agreed by the parties and, failing such agreement, the arbitrators may apply rules that they determine to be appropriate (*Article 26(2)*). The arbitrator may determine the admissibility, necessity and weight of the evidence (*Article 26(3)*). Although an arbitrator has no authority to force the disclosure of documents or compel the attendance of witnesses, the arbitrator may freely take into consideration all circumstances related to evidence for their final conclusion. In addition, the parties may, with the consent of the arbitrator(s), have recourse to a court order for the production of evidence (*Article 35*).

Evidence

22. What documents must the parties disclose to the other parties and/or the arbitrator? How, in practice, does the scope of disclosure in arbitrations compare with disclosure in domestic court litigation? Can the parties set the rules on disclosure by agreement?

Scope of disclosure

There is no provision in the Arbitration Law governing the disclosure of evidence. In principle, the parties may agree on rules of evidence. Failing such agreement, the arbitral tribunal may conduct the examination of evidence in the manner that it considers appropriate. As a practical matter, since Japanese lawyers are usually involved in an arbitration that takes place in Japan as an arbitrator or representing the parties, the examination of evidence is likely to be more similar to a Japanese civil court procedure than a broader common law discovery process.

The Arbitration Law stipulates that the arbitral tribunal or, with the consent of the tribunal, a party may request court assistance in taking evidence, including witness and expert testimony, document production orders and inspection (*see Question 21*). However, these requests are rarely made in practice, except for non-party testimony.

Parties' choice

The parties can agree their own rules on disclosure, provided that they are not against public policy.

Confidentiality

23. Is arbitration confidential? If so, what is the scope of that confidentiality and who is subject to the obligation (parties, arbitrators, institutions and so on)?

The Arbitration Law does not expressly prohibit the disclosure of information regarding the arbitral proceedings. However, the lack of provisions that allow or oblige the parties to disclose the hearing process or documents leads to the interpretation that arbitral proceedings are generally not disclosed. In practice, parties are bound by the confidentiality agreement incorporated in the arbitration agreement. In addition, most arbitration organisations' rules expressly stipulate that arbitral proceedings and records are to be kept confidential from the public, for example JCAA Rule 38.

These confidentiality obligations may yield to other legal or procedural obligations, such as timely disclosure in the case of listed companies. In addition, if a party challenges an arbitral award under Article 44 of the Arbitration Law, both the award and the record of the arbitration proceedings will be disclosed to the court. Although under Article 9 of the Arbitration Law only parties that have an interest in the procedure may access the court records, if a court opens a hearing date, the procedure is generally open to the public.

Most arbitration organisations' rules expressly stipulate that arbitrators, officers and staff of the organisation, the parties and their representatives, and other persons involved in the arbitral procedure must not disclose facts related to arbitration cases except where disclosure is required by law or court proceedings.

Courts and arbitration

24. Will the local courts intervene to assist arbitration proceedings seated in its jurisdiction?

The Japanese courts are prohibited from exercising their authority unless there is an express provision to this effect in the Arbitration Law (*Article 4*). The arbitral tribunal or a party may request the court to assist in taking evidence by any means considered necessary by the arbitral tribunal. The taking of evidence can relate to the entrustment of investigation, examination of witnesses, expert testimony, investigation or inspection of documentary evidence (*Article 35*). The court may assist with:

- Serving notice (*Article 12*).
- Appointing an arbitrator (*Article 17*).
- Challenging an arbitrator (*Article 19*).
- Removing an arbitrator (*Article 20*).
- The jurisdiction of the arbitral tribunal (*Article 23*).

The Arbitration Law stipulates that the following courts may have exclusive jurisdiction over arbitration related applications:

- The district court designated by the agreement between the parties.
- The district court with jurisdiction over the place of arbitration.
- The district court with jurisdiction over the location of the respondent's venue, that is, the place of domicile or address of the principal office (*Article 5*).

25. What is the risk of a local court intervening to frustrate an arbitration seated in its jurisdiction? Can a party delay proceedings by frequent court applications?

Risk of court intervention

It is very unlikely that a Japanese court would intervene to frustrate an arbitration. As a matter of civil procedure in Japan, courts usually respect parties' agreements and therefore are not likely to intervene against them. Article 4 of the Arbitration Law stipulates the general rule that the courts must not intervene with an arbitration except where the Arbitration Law so provides. The number of cases that are set aside by a court is very small and the courts are, in general, sympathetic to arbitral tribunals.

Delaying proceedings

In practice, an arbitral tribunal will proceed in accordance with the initial schedule, and the courts do not proceed on court applications blindly but consider the whole situation, so delaying tactics are rare. The general rule of non-intervention in Article 4 of the Arbitration Law also supports this by granting the arbitral tribunal authority to proceed.

Remedies

26. What interim remedies are available from the tribunal?

Interim measures

Before or during an arbitral proceeding, a party may request from a court an interim measure of protection in respect of a civil dispute that is the subject of the arbitration agreement (*Article 15*). The Arbitration Law does not specify the available interim measures, which are handled in accordance with the Civil Preservation Law (Law No. 91 of 1989).

However, the Arbitration Law stipulates that the arbitral tribunal may order any party, on the request of a party and its rendering of the required security bond, to take interim measures as the arbitral tribunal may consider necessary for protection in respect of the subject matter of the dispute (*Article 24*).

Recently, the JCAA has set out the detailed interim measures that the arbitrator can order, subject to some conditions being satisfied (*JCAA Rules 70- 74*).

Ex parte

The Arbitration Law does not provide for interim relief on an ex parte basis. However, under the JCAA Rules, the JCAA may appoint an emergency arbitrator for urgent situations. But even this procedure does not allow the claimant to obtain an order of emergency measures from the emergency arbitrator ex parte because the application for emergency measures must be notified to the respondent.

Security

The arbitral tribunal may award security to the extent regarded as necessary (*Article 24*) (see *Question 26*).

27. What final remedies are available from the tribunal?

The Arbitration Law does not stipulate the specific types of final remedy that are available. However, by implication from the civil procedure in Japan, the arbitral tribunal can award the remedies that are available in court litigation for disputes for which arbitration is permitted. These may include damages, injunctions, declarations, costs and interest.

Appeals

28. Can arbitration proceedings and awards be appealed or challenged in the local courts? What are the grounds and procedure? Can parties waive any rights of appeal or challenge to an award by agreement before the dispute arises (such as in the arbitral clause itself)?

Rights of appeal/challenge

Arbitration awards can be challenged in local courts, provided that the place of the arbitration is in the territory of Japan (*Article 3(1) and Article 44(1)*).

Grounds and procedure

Under Article 44(1) of the Arbitration Law, the grounds for challenging arbitral awards are limited to the following issues:

- The arbitration agreement is invalid.
- The requisite notice to appoint arbitrators was not given to a party.
- A party was unable to defend its case.
- The matters of the award are beyond the scope of the arbitration agreement or claims of the arbitration.
- The composition of the tribunal or the conduct of the proceedings were not in accordance with the parties' agreement.

- The award was based on a dispute that does not qualify as a subject for arbitration.
- The award is against public policy.

The parties may not challenge an award if three months have passed after receiving notice of the award or after an enforcement order has become final and conclusive (*Article 44(2)*). The local court will hold a hearing to decide the challenged award (*Article 44(5)*).

Excluding rights of appeal

The Arbitration Law does not stipulate whether or not it is possible to waive any right to challenge an arbitral award by agreement before the dispute arises. Although there do not appear to be any court precedents on the matter, it may be possible to do so on the basis that the Code of Civil Procedure allows parties to waive the right to appeal to the High Court (*Article 284, Code of Civil Procedure*).

29. What is the limitations period applicable to actions to vacate or challenge an international arbitration award rendered?

There is no specific limitation period applicable to an international arbitration award and so the three months stated in Article 44(2) would also be applied to actions to vacate or challenge an international arbitration award rendered.

Costs

30. What legal fee structures can be used? Are fees fixed by law?

The Arbitration Law has only generic provisions on legal fees and there is no legal fee structure stipulated by law. However, the JCAA has detailed rules on fees based on hourly rates, which include specific rules for reduced rates in cases that require a substantial amount of time. It also has a rule requiring fixed fees for emergency arbitrators.

31. Does the unsuccessful party have to pay the successful party's costs? How does the tribunal usually calculate any costs award and what factors does it consider?

Cost allocation

Parties may agree on how to apportion the cost of the arbitration procedure, including apportioning legal fees between the parties. Failing such agreement, each party must bear the costs it has disbursed in relation to the proceedings (*Article 49*). The unsuccessful party is not obligated as a matter of law to pay the successful party's costs. According to the JCAA Rules, the parties are jointly and severally liable for the arbitration costs that are paid to the arbitrators by the JCAA.

Cost calculation

There is no provision as to cost calculation in the Arbitration Act. According to the JCAA Rules, arbitration costs may include the administrative costs of the JCAA, arbitrators' fees, transportation and accommodation costs of the arbitrators, and other costs reasonably related to the arbitration proceedings.

Factors considered

There is no provision as to factors considered in the Arbitration law. According to the JCAA Rules, when calculating costs the court will consider facts such as how complicated the case is, whether a resolution can be expected to be reached in an expedited manner, and the capabilities of each arbitrator.

Enforcement of an award

Domestic awards

32. To what extent is an arbitration award made in your jurisdiction enforceable in the local courts?

Domestic arbitration awards will have the same effect as a final judgment of the court and will be enforced by the district courts (*Article 45 and Article 46(4)*). A party requesting enforcement based on the arbitral award should apply to a court for an enforcement order (*Article 46(1)*). If the court recognises the award and issues an enforcement order, the court must enforce the order unless the award has been set aside or its effect has been suspended by a judicial body in Japan.

Foreign awards

33. Is your jurisdiction party to international treaties relating to recognition and enforcement of foreign arbitration awards, such as the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention)?

Japan is a party to the New York Convention and reserves the principle of reciprocity.

34. To what extent is a foreign arbitration award enforceable?

Foreign arbitral awards are enforceable in the same way as domestic arbitral awards, provided that the appropriate procedure is followed in accordance with the arbitration rules and regulations in the relevant jurisdiction. With regard to enforcement, the Arbitration Law does not distinguish between foreign arbitration awards and domestic arbitration awards (*Article 3(3)*).

35. What is the limitations period applicable to actions to enforce international arbitration awards rendered outside your jurisdiction?

The limitation period applicable to actions to enforce an international arbitration award is not stipulated. The statutory limitation on claims under the substantive law of the merits would be taken into consideration.

Length of enforcement proceedings

36. How long do enforcement proceedings in the local court take, from the date of filing the application to the date when the first instance court makes its final order? Is there an expedited procedure?

Once an enforcement order is obtained, there is no significant difference in the length of the enforcement proceedings in respect of domestic as opposed to foreign awards. However, for an enforcement order to be issued, a hearing date at a local court must first be set, which sometimes takes months in the cases of foreign awards (*Article 46(10) and Article 44(5)*).

Reform

37. Are any changes to the law currently under consideration or being proposed?

There are no changes to the Arbitration law being considered currently in Japan.

Main arbitration organisations

Japan Commercial Arbitration Association (JCAA)

Main activities. The JCAA is the most prominent arbitration organisation to contribute to the resolution of disputes arising from international and domestic business transactions, and is the only permanent commercial arbitral institution in Japan.

W www.jcaa.or.jp/e/index.html

Tokyo Maritime Arbitration Commission of Japan Shipping Exchange, Inc. (TOMAC).

Main activities. TOMAC is used to resolve disputes arising under bills of lading, charter parties, contracts relating to the sale and purchase of ships, shipbuilding, ship financing and manning.

W www.jseinc.org/en/tomac/

Committee for Adjustment of Construction Work Disputes

Main activities. The Committee for Adjustment of Construction Work Disputes is organised under the Ministry of Land, Infrastructure and Transportation, and each prefecture in Japan, to resolve disputes arising out of construction agreements.

W www.mlit.go.jp/totikensangyo/const/totikensangyo_const_tk1_000071.html

Alternative Dispute Resolution Centres of Bar Associations (ADR centres)

Main activities. ADR centres are organised under each local bar association and deal with all disputes, including small or medium-sized disputes.

W www.nichibenren.or.jp/contact/consultation/conflict.html

Japan Intellectual Property Arbitration Center (JIPAC)

Main activities. JIPAC is an alternative dispute resolution organisation that was originally founded as the Industrial Property Rights Arbitration Center by the Japan Patent Attorneys Association and the Japan Federation of Bar Associations for the purpose of resolving industrial property rights disputes.

W www.ip-adr.gr.jp/eng/

Online resources

Japanese Law Translation

W www.japaneselawtranslation.go.jp/law/detail/?printID=&id=2155&re=01&vm=02

Description. The Japanese Law Translation Database System is a website managed by the Ministry of Justice in Japan that provides translations of Japanese laws and regulations, but the version translated into English is treated as unofficial.

Contributor profiles

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Areas of practice. M&A; corporate; banking and finance; real estate; capital markets; business restructuring; insurance; SE Asia practice.

Non-professional qualifications. LLM, University of Michigan Law School

Recent transactions

- Advising lenders, real estate companies and funds on numerous office development projects individually valued at up to US\$3 billion.
- Advising lenders, real estate companies and funds on commercial development projects valued at up to US\$200 million.
- Advising lenders, real estate companies and funds on REIT refinancing.
- Advising lenders, real estate companies and funds on the redevelopment of a landmark cultural institution in Tokyo.
- Advising insurance companies regarding the new Insurance Law.

Languages. Japanese, English and Italian

Professional associations/memberships. Tokyo Bar Association.

Publications. *Global Legal Insights - Corporate Real Estate, First Edition, Japan Chapter, Global Legal Group, 2014; Vietnamese court's revocation of a VIAC arbitral award: a Japanese investor vs its Vietnamese JV partner, JCA Journal, the Japan Commercial Arbitration Association, January 2014.*

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Areas of practice. Litigation, arbitration, ADR; Chinese and Asian law practices; corporate; restructuring; intellectual property rights; M&A; IT; Healthcare.

Non-professional qualifications. BS, Keio University, 2004

Recent transactions

- Acting as arbitrator in a JCAA product defect case between a Taiwanese Company and a Japanese company.
- Acting as legal counsel to a Japanese company in a JCAA arbitration application JCAA against a Bahamian company.

- Advising a Japanese company on a CIETAC arbitration related to the restriction of remittance and transfer credits in mainland China.
- Acting as legal counsel to a Hong Kong company in Japan court procedures relating to the enforcement of an arbitral award rendered in HKIAC.

Languages. Japanese, English, Chinese

Professional associations/memberships. Dai-ni Tokyo Bar Association; Deputy Director-General of the Japan Association of Arbitrators; Vice-Chairperson of the steering committee of the Arbitration Center of the Dai-ni Tokyo Bar Association; Member of the steering committee of the Young Japan Association of Arbitrators (YJAA); Member of the Research Committee on Business Recovery in China, a research committee of the Japanese Association for Business Recovery.

Publications

- *Training Material for International Arbitration Practice, Shinzansha Publisher Co Ltd, 2015.*
- *Using CIETAC to resolve disputes: what you need to know when doing business in China, SHUNKAN KEIRIJOUHOU No. 1335, 2013.*
- *Japanese translation of the IBA Guidelines for Drafting International Arbitration Clauses, listed on the IBA website, December 2011.*

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Recent transactions

- Advising Japanese investors in an arbitration at Vietnam International Arbitration Centre and related court litigation, including the Supreme Court.
- Advising and representing the Ministry of Japanese government on various sectors in Vietnam.
- Representing various companies in negotiations with the Vietnamese government.
- Representing various companies on commercial and civil disputes, including international trade cases in Japan and Southeast Asia.
- Advising and representing various Japanese financial institutions on cross-border transactions.

Languages. Japanese, English, Vietnamese

Professional associations/memberships. Dai-ni Tokyo Bar Association.

Publications. *Viet Nam - Facing Global Competition with the ASEAN' s Accelerated Economic Integration: Current Legal Practice, The Lawyers, ILS Publications Inc, December, 2014; Vietnamese court' s revocation of a VIAC arbitral award: a Japanese investor vs its Vietnamese JV partner, JCA Journal, the Japan Commercial Arbitration Association, January, 2014.*

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