

TDM Journal (Transnational Dispute Management)

TDM Special Issue: Resolving International Business Disputes by ADR in Asia

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in Editorial**

Preface

We are pleased to present this special issue of Transnational Dispute Management. In this issue, over two dozen practitioners and academics across the globe examine the changing practices in resolving international business disputes by Alternative Dispute Resolution (ADR) in Asia, a region that has experienced phenomenal growth in the use of ADR - and international arbitration in particular - to resolve international business disputes in recent years.

The ascendance of ADR in Asia is largely a product of the tremendous growth of Asian countries' economies and their increased participation in global commerce. The rise of China, India, and other Asian states as major investment destinations and the expansion of Asian multinational corporations overseas have increased business opportunities, and thus business disputes, in the region.

The high demand for ADR services, in turn, has driven many Asian governments to cultivate a pro-arbitration environment through new arbitration legislation and other mechanisms. Prominent seats of international arbitration - including Hong Kong (June 2011), Malaysia (July 2011), and Singapore (January 2010), as well as emerging seats such as Vietnam (January 2011) - have effected national legislative changes in the spirit of encouraging international commercial arbitration. Many of these states have based their amendments on the UNCITRAL Model Law 2006.

The business community's demand for ADR services in Asia has also led to the proliferation and revitalization of international arbitral centers throughout Asia. Some Asian arbitral institutions - including the China International Economic and Trade Arbitration Commission (CIETAC), the Hong Kong International Arbitration Centre (HKIAC), and the Singapore International Arbitration Centre (SIAC) - are among the busiest and most prominent around the globe. Other Asian institutions - such as the London Court of International Arbitration (LCIA) India - have been newly established. Many of these institutions have adopted new arbitration rules, and they all have emulated global and regional best practices in an effort to provide complementary regional alternatives to meet the needs of the business community in Asia.

Likewise, many global law firms have also responded to the increased demand for ADR services by aggressively entering the Asian market and deploying significant resources to the region. In addition to the rise of indigenous Asian firms, many leading North American, European, and Australian law firms providing ADR services have established offices in Asia and transferred experienced practitioners to those offices. Thus, evidence to support the forecasts of the "Asian century" is apparent in the growth of international business dispute resolution by ADR in Asia.

This TDM Asia special issue provides international practitioners and arbitrators with an overview of the new developments in the ADR field unfolding across the region and prepares them for the Asian-specific challenges they are likely to encounter in their ADR practices. It is divided into five parts. Following this introduction, the articles in Part II explore recent developments and trends in international business dispute resolution in Asia. These articles scrutinize recent ADR practices in the region, while also looking forward to Asian advancement in dispute resolution. Next, the articles in Part III address topics in international commercial arbitration and ADR in Asia. These articles examine Asian international commercial arbitration practices at a regional and national level and provide practical and theoretical perspectives on developments in the region.

The articles in Part IV encompass issues of investment arbitration in Asia. These articles analyze issues of investor-state dispute settlement in the Asia region - including the ASEAN investment agreements - and particular Asian countries - including China and Japan. Part V then provides legislative developments relating to India. Finally, Part VI offers a book review by Michael Hwang S.C. of *International Commercial Arbitration: An Asia-Pacific Perspective* by Simon Greenberg, Christopher Kee, and J. Romesh Weeramantry.

We hope that readers find the collective articles and comments in this special edition to be useful in highlighting and summarizing the profound changes occurring in the resolution of international business disputes by ADR in Asia.



Professor A F M Maniruzzaman
Chair in International and Business Law
School of Law, University of Portsmouth, U.K.
[View profile](#)



Gary Born
Chair, International Arbitration
Wilmer Cutler Pickering Hale and Dorr LLP
[View profile](#)

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