

BOOK LAUNCH
INTERNATIONAL COMMERCIAL ARBITRATION
BY RASHDA RANA AND MICHELLE SANSON
13 APRIL 2011

Distinguished guests, ladies and gentlemen.

I am very pleased to launch this new publication by Thomson Reuters entitled *International Commercial Arbitration* by Rashda Rana and Michelle Sanson.

The book is timely, thoughtful and comprehensive. It is of course timely assimilating as it does the recent significant amendments to the *International Commercial Arbitration Act*. These follow the Federal Attorney General's sponsored reform of international arbitration in Australia. They adopt (for the most part) the 2006 amendments to the UNCITRAL Model Law including interim (but not ex-parte) orders. They also provide that the Model Law covers the field, for the conferring of concurrent jurisdiction on the Federal Court of Australia and outline a prescribed appointing authority under the Model Law.

The work brings up to date the developments in the common law in our region of which I will say more. The first edition has been published before the High Court decision in *Gordian Runoff* in which an application for special leave was heard in February 2011, but as we know publisher's deadlines do not wait.

The book is comprehensive. It treats in detail the arbitration process from formation of the agreement, applicable laws of the seat, the tribunal, the (sometimes vexed) issue of procedure, issues such as confidentiality and interim measures and court involvement to aspects of the award (including interest, currency and costs) and enforcement and challenges. It does so in a very thoughtful way.

In Chapter 1 there is a comparison of statutory approaches and developments in the Asia Pacific region between Australia, Hong Kong, Singapore, Malaysia and China. This regional

approach is a feature of the book. There is a list of arbitral rules and relevant treaties and conventions and individual sections, articles and rules are dealt with by comparative reference to the law. Importantly, the book provides extensive relevant case examples not only from Australia but the United Kingdom, India, Hong Kong, Singapore, Malaysia, China and other jurisdictions. These include decisions concerning: the refusal to register an arbitration award by a signatory to the New York Convention,¹ the canvassing of *forum non conveniens* issues in the resolution of a jurisdiction question arising out of the construction of an arbitration clause,² challenge to an award upon the basis of breaches of public policy,³ an application for leave to enforce a final arbitral award⁴ and enforcement of an “escalation” or multi-tiered dispute resolution clause.⁵

The book contains a helpful table comparing the institutional rules of ACICA, UNCITRAL, CIETAC, SIAC, HKIAC, ICC, LCIA and KLRCA. Relevant current issues are also dealt with on a regional basis. For example, there is an exposition on how confidentiality is treated in different jurisdictions by reference to the case law and a comparison between arbitration rules.

International arbitration of its nature deals with resolution of cross border disputes. Consideration by the parties to a cross border contract of an appropriate arbitration clause will necessarily involve consideration of approaches to arbitration in different jurisdictions. As we know, choice of the seat will govern procedure. There can be differences of approach to enforcement of awards in different jurisdictions. The regional approach adopted by the authors recognises the importance of a comparative understanding of the law within the significant trading region in which we operate both for commercial clients and their advisors.

¹ *Alami Vegetable Oil Products Sdn Bhd v. Lombard Commodities Limited* [2010] 1 CLJ 137.

² *Norscot Rig Management PVT Limited v. Essar Oilfields Services Limited* [2010] EWHC 195 (Comm).

³ *Sui Southern Gas Co.Ltd. v. Habibullah Coastal Power Co (Pte) Ltd* [2010] SGHC 62.

⁴ *Denmark Skibstekniske Konsulenter AVS I Likvidation v. Ultrapolis 3000 Investments Ltd* [2010] SGHC 108.

⁵ *United Group Rail Services Limited v. Railcorp of New South Wales* [2009] NSWCA 17.

Each chapter provides a summary of the key issues which will be dealt with in the chapter and these are also comprehensive. For example the chapter on the preliminary conference identifies the key issues including what occurs at a preliminary conference, where does the preliminary conference take place, what are the issues that should be addressed at the preliminary conference, what are the terms of reference and who prepares them, which procedures can an arbitral tribunal adopt for the hearing, what types of orders and directions can the Tribunal make, how is the evidence dealt with and how and when are the arbitral proceedings brought to a close.

In addition to being set out with abundant clarity each chapter provides an arbitration scenario and related questions for consideration by the arbitral student. Each chapter also provides helpful recommendations for further reading of up to date texts and articles. The book contains useful web-links for researching issues in international commercial arbitration. It has a list of relevant acronyms (although for some reason the Chartered Institute of Arbitrators does not appear). It also has a glossary of commonly used arbitration terms including not only anti-suit injunction but anti anti-suit injunction and even anti anti anti-suit injunction.

Lastly, the work includes a chapter on specialist forms of arbitration including comprehensive treatments of the London Maritime Arbitrators Association, the Court of Arbitration for Sport, the World Intellectual Property Organisation, the International Centre for the Settlement of Investment Disputes and the World Trade Organisation.

I can only endorse without qualification the comments of the publisher found on the flyleaf that students at every level, practitioners in private practice and in-house counsel will all find this work highly useful. I would venture to add to this group legislators, those directing policy at arbitral institutions and arbitrators themselves. I could find no other work which so comprehensively brings up to date the law and practice of international arbitration by reference to our expanded region. It is a timely local supplement to works like *Redfern & Hunter*. The

authors are to be commended for their foresight, scholarship and effort and the publishers for their support.

I am very pleased to launch the work.

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