Responding to the needs of international business
A guide to international commercial arbitration in Japan
As the largest economy in the world’s most dynamic region, Japan is a key international business destination. It offers world-class infrastructure in terms of transport and communications links. The capital Tokyo amply justifies its reputation as one of the world’s great cities – a leading financial center as well as a comfortable and secure place to visit, boasting many highly rated hotels and restaurants.

Japan offers several advantages as a place for resolving commercial disputes. The completely revised Japanese Arbitration Law that came into force in March 2004 is based on the UNCITRAL Model Law on International Commercial Arbitration. It provides a comprehensive legal basis for arbitral procedures, ensuring that arbitration in Japan fully meets global standards. Japan has a reliable, permanent arbitral institution for resolving international commercial disputes in the Japan Commercial Arbitration Association (JCAA), a body with a track record of over 50 years of experience.

Modern Japan is energetic yet refined, fully wired but also enticing: a place where fast-paced international business mixes seamlessly with a cultural yearning to seek consensus amid traditional notions of fair play. Consider it your preferred place for international commercial arbitration.
Global standard
Japan’s law on arbitration was completely revised in 2004 along the lines of the UNCITRAL Model Law, bringing Japan into line with global norms. The new Arbitration Law provides a sound legal basis for conducting international arbitration procedures in Japan.

Party autonomy
The fundamental principle of party autonomy in arbitral proceedings is respected in the new Arbitration Law. It offers both parties in an international arbitration case considerable flexibility in deciding procedures. Most of the provisions are not mandatory and the parties may agree to override them.

Court assistance and minimal interference
Court intervention in arbitral proceedings is prohibited under the new Arbitration Law except in specifically defined circumstances. Instead, courts play a supporting role, rendering valuable assistance by appointing arbitrators, serving notice or taking evidence. For instance, the Tokyo District Court examined a witness that failed to appear at a JCAA arbitration hearing. The same court has also served a copy of an arbitral award at the request of the JCAA based on the 1965 Hague Service Convention.

Representation by foreign legal counsel
Following an amendment in 1996 to The Special Measures Law Concerning the Handling of Legal Business by Foreign Lawyers, lawyers practicing outside Japan may represent clients in international arbitration cases conducted in Japan. Foreign lawyers registered to practice in Japan (gaikokuho-jimu-bengoshi) may also act as counsel in such cases.

The New York Convention
Japan is a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). Foreign arbitral awards rendered in other signatory nations can be enforced in Japan under this Convention. Similarly, the new Arbitration Law also governs the enforcement of foreign arbitral awards. Japanese courts have without exception upheld the recognition and enforcement of foreign arbitral awards in Japan.
A reputation for impartiality and efficiency

The JCAA as a neutral forum

Fair and efficient administration

Operating as an independent entity since 1953, the JCAA has administered the arbitration of hundreds of commercial disputes over the past 50 years based on its Commercial Arbitration Rules. The prime mission of the JCAA is to administer cases fairly and efficiently from a neutral standpoint. Consistent adherence to transparent rules and principles has earned the JCAA high credibility among arbitration professionals globally.

Administrative support

The personnel of the Secretariat of the JCAA have extensive experience in supporting arbitral tribunals and serving the needs of parties, both Japanese and non-Japanese. Both Japanese and English may be used in communication with the Secretariat. At the request of the arbitral tribunal or either party, the JCAA Secretariat can organize the arrangements for the arbitral proceedings, including provision of a hearing room and related services such as tape recordings, stenographic transcripts and interpretation. Other services include drafting of any procedural orders issued by the tribunal, sending notifications to parties, and checking the written arbitral award draft for computation, typographical or other errors.
A reputation for impartiality and efficiency

The JCAA as a neutral forum Continued

Party autonomy
JCAA rules on arbitral proceedings grant both the claimant and respondent considerable autonomy and flexibility. Parties are free to design the arbitral procedures, and may also determine matters by mutual agreement differently from the provisions of the Rules. In particular, the languages used in the arbitral proceedings can be chosen by mutual agreement of the parties.

Freedom to select arbitrators
The JCAA does not place any restrictions on the number, nationality or place of residence of arbitrators. Parties are free to select the most suitable arbitrators for each case. The JCAA maintains a panel of more than 100 arbitration experts, both Japanese and non-Japanese, to facilitate the appointment process. In line with international norms, JCAA rules require arbitrators to be impartial and independent. Any conflicts of interest that could cast justifiable doubt on impartiality and independence must be fully disclosed in advance.

Optional application of UNCITRAL Arbitration Rules
Another flexible aspect of JCAA arbitration is that the parties can choose a different set of arbitration rules. If the parties opt to conduct proceedings based on the UNCITRAL Arbitration Rules, the JCAA can apply administrative and procedural rules for this arbitration.

Expedited Procedures
JCAA rules contain a special set of Expedited Procedures to enable disputes whose amount is less than ¥20 million to be settled within three months of the appointment of a single arbitrator.

Cost transparency and predictability
The JCAA seeks to provide parties with an arbitral process whose costs are predictable and transparent. Fees are set out explicitly in the Arbitration Fee Regulations. Administrative fees are based on the size of the economic claim, while arbitrator fees are assessed on a per-hour basis. The charge per hour is fixed by the JCAA at the outset of the process, and total arbitrator fees are subject to a cap that varies according to the amount in dispute.

Confidentiality
All arbitral proceedings at the JCAA provide full confidentiality to each side. Proceedings are closed to the public. The disclosure of any case-related information by arbitrators or by the staff and officers of the JCAA is strictly prohibited.
First-class infrastructure

A reliable and stable framework

An advanced nation
One of the economically wealthiest and technologically most advanced countries in the world, Japan possesses all the facets necessary for reliable and effective resolution of commercial disputes by arbitration.

Good communications and transport connections
A global leader in mobile communications, Japan boasts state-of-the-art telecoms infrastructure. Japan is connected to all the world’s leading cities by direct flights to and from international airports in the east (Narita) and west (Kansai) of the country. Road and rail transport links between the leading cities of Tokyo, Osaka and Nagoya are quick and efficient. The integrated rail and subway network of Tokyo is the world’s largest, and is fully signed in English for the benefit of visitors and the city’s many foreign residents.

A business and financial hub
A leading international financial center, the capital Tokyo is a great place to do business. Besides the excellent transport services, the city also boasts many top-class hotels and a vibrant nightlife. The standard of cuisine – both Japanese and international – is among the highest in the world. Levels of crime are low by international standards, ensuring that visitors feel secure at all times. And, after nearly a decade of deflation, Japan can be surprisingly good value for the overseas visitor.

Cultural benefits
Japan offers many intangible cultural benefits as a neutral arbitration venue. It is a nation with a rich and vibrant culture where ancient traditions combine seamlessly with thoroughly modern comforts and sophisticated offerings at every level. Equality before the law and fair play are highly valued norms of Japan’s democratic society. Arbitration in Japan can, and does produce fair, just and unbiased settlement of disputes.

The Japan Commercial Arbitration Association
History
The predecessor of the JCAA was the International Commercial Arbitration Committee, which was established in 1950 as part of the Japan Chamber of Commerce and Industry. Its activities were supported by seven leading Japanese business organizations, including the Japan Federation of Economic Organizations, the Japan Foreign Trade Council, and the Federation of Banking Associations of Japan. The purpose of the fledgling organization was to contribute to the development of the Japanese economy by facilitating the settlement of commercial disputes and thereby promoting international trade.

In 1953, the Committee became a separate, independent association as the swift growth of international trade reinforced the need for an expanded base of activities in the field of commercial dispute arbitration. Over more than fifty years, the JCAA has administered the arbitration of hundreds of cases, both domestic and international.

Mission
As the only permanent commercial arbitral institution in Japan, the mission of the JCAA is to promote the prevention and resolution of disputes arising from domestic and international business transactions. Through its transparent rules and procedures, the JCAA seeks to help all parties find a fair, quick and efficient resolution to a commercial dispute, whether through arbitration, conciliation or mediation.

Other services
Mediation
The JCAA provides mediation services, primarily for the settlement of domestic commercial disputes. The JCAA is also involved in developing educational materials for training mediators.

ATA Carnet
Since 1973, the JCAA has issued and guaranteed ATA Carnets under the ATA Convention covering the temporary admission of goods. These forms act as official international customs clearance documents, effectively providing a passport for goods (such as samples for a trade show) to over 60 countries worldwide. The JCAA also administers the SCC Carnet system, which applies exclusively to temporary exports and imports between Japan and Taiwan.

Consulting
The JCAA provides consulting services designed to prevent and resolve international commercial disputes. An attorney or trade expert provides such services, depending on the nature of the business or dispute.

Seminars and conferences
The JCAA sponsors and organizes forums, seminars and lectures on international commercial arbitration and international trade law, primarily for the benefit of Japanese corporations. Guest speakers on international arbitration topics typically include experts in the field of international arbitration and representatives of leading arbitral institutions. Through such activities, the JCAA aims to disseminate information and knowledge on the systems of arbitration that support international commerce, and to promote greater use of these arbitration systems for resolving disputes (notably by encouraging companies to insert arbitration clauses into contracts).

Library
In conjunction with services aimed at preventing and resolving international commercial disputes, the JCAA maintains a large reference library containing domestic and international arbitration literature for the benefit of arbitrators, parties in the dispute and members of the JCAA.

Global collaboration
The JCAA has concluded cooperative agreements with over forty major international arbitral institutions, including the American Arbitration Association, the Arbitration Institute of the Stockholm Chamber of Commerce, The London Court of International Arbitration, The Korean Commercial Arbitration Board, The International Court of Arbitration of the International Chamber of Commerce, Hong Kong International Arbitration Centre, Singapore International Arbitration Centre and The China International Economic and Trade Arbitration Commission. The JCAA also belongs to the International Federation of Commercial Arbitration Institutions, a global federation of commercial arbitration institutions.
STANDARD ARBITRATION CLAUSE
All disputes, controversies or differences which may arise between the parties hereto, out of or in relation to or in connection with this Agreement shall be finally settled by arbitration in (name of city) in accordance with the Commercial Arbitration Rules of the Japan Commercial Arbitration Association.

TOKYO HEAD OFFICE
3rd Floor, Hirose Building,
3-17, Kanda Nishiki-cho,
Chiyoda-ku, Tokyo 101-0054
Telephone: +81 3 5280 5161
Fax: +81 3 5280 5160
Email: arbitration@jcaa.or.jp

OSAKA OFFICE
The Osaka Chamber of Commerce & Industry Bldg.
2-8, Hommachibashi, Chuo-ku, Osaka 540-0029
Telephone: +81 6 6944 6164
Fax: +81 6 6946 8865
Email: osaka@jcaa.or.jp