

Title: Vietnam's Draft Law on Commercial Arbitration: Has Vietnam Caught Up?

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Abstract: In an increasingly global world, international arbitration has become the premiere dispute resolution mechanism. Multinational corporations and governments alike rely on arbitration to provide an independent method of adjudication for parties in cross-border disputes. As a result, the ability to attract investment and to operate as an enticing jurisdiction for foreign investment inflows is heavily reliant on a reliable system of arbitration. Such a system can take the form of a highly developed arbitration regime or a reputation for enforcing foreign arbitral awards and court judgments. In the past three decades, Southeast Asia has endured remarkable growth. This growth has been facilitated by privatization and the influx of foreign investment. In recent years, the Vietnamese economy has grown faster than nearly every other regional competitor. In greater Asia, only China is able to dwarf Vietnamese economic progress. Through this growth, Vietnam has enacted waves of legislation intending attract and secure foreign investment. This paper will focus on the most recent addition to Vietnam's legislative campaign to secure its footing as a reliable destination for investment: The Draft Law on Commercial Arbitration. Using an advanced copy of the Draft Law on Commercial Arbitration, this paper considers the extent to which the Draft Law will operate as an enticing body of legislation among regional competitors for arbitration proceedings, namely Hong Kong and Singapore. The paper will frame the Draft Law's treatment of arbitral scope, appointment of arbitrators, the use of interim measures, liability of arbitrators, and consumer protection clauses, framing each in the context of Vietnam's growing arbitration regime (considering both its commitments under multilateral conventions and given available Vietnamese precedent). Similarly, the paper will help to explain why court intervention and the choice of foreign law will continue to operate as economic hurdles to the growth of a competitive regime for Vietnamese arbitration proceedings and a robust venue for economic growth in the form of foreign investment.