



Joint statement on international arbitration in Japan

The American Chamber of Commerce in Japan (ACCJ)
Legal Services Committee, The European Business Council in Japan (EBC
LSC)

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International arbitration is widely used in Europe, North America and elsewhere around the world. Many lawyers and law firms admitted and based in jurisdictions outside Japan have broad experience with international arbitration. Notably, international arbitration has become the standard for dispute resolution between major companies around the world. For various reasons, however, Japan has not developed as an international center. Many Japanese multinationals elect to arbitrate their disputes, but few select Tokyo as the seat of the arbitration

Encouraging and developing Tokyo as an international arbitration center

The ACCJ and the EBC LSC strongly support the development of Tokyo as an international arbitration center. The ACCJ and the EBC LSC applaud the efforts of the Ministry of Justice (MOJ) and the Government of Japan (GOJ) to support the development of Tokyo and other cities in Japan as centers of international arbitration and mediation. In order for Japan to develop, it is critical for the GOJ to support the use of arbitration seated in Japan by incentivizing the selection of Japan as a seat and the rules of JCAA and other arbitral and mediation bodies in Japan.

Facilities should be modernized and the internationalization of Japan's arbitration and mediation bodies and their professional staff should be promoted to provide comfort to parties in deciding to arbitrate or mediate in Japan.

Japan must ensure that *gaiben* and other foreign admitted lawyers (on a fly in-fly out basis) are accepted to act as advocates and neutrals in any and all arbitrations and mediations seated in Japan. The possibility, however remote, that one may not be able to use counsel and neutrals of choice creates a significant disincentive to parties choosing Japan as a seat for arbitration or mediation. This openness and internationalization of Japanese arbitrations and mediations should be clarified to give contracting parties confidence in selecting Japan as a venue for resolving disputes. Laws and rules applicable to foreign lawyers (including those applicable to *gaiben*) should state clearly that the presence of elements linking the arbitration to Japan, such as identity of the parties and place where the relevant facts arise, does not lead to a requirement that only *bengoshi* may serve as advocates or neutrals.

The Japanese government should continue to encourage all stakeholders to modernize applicable rules and procedures to facilitate the selection of Japan as a seat of arbitration and mediation, as quickly as reasonably possible, in order to make Japan attractive and competitive in this area.