

# Table of Contents

## **CHAPTER 1. GLOBAL GOVERNMENT CONTRACTING: A COMPARATIVE LAW OVERVIEW OF MAJOR GOVERNMENT CONTRACTING ECONOMIES**

### **I. DEVELOPMENT OF GLOBAL GOVERNMENT CONTRACTING**

§ 1:3 International agreements on public procurement

### **II. UNITED STATES**

§ 1:5 Overview

§ 1:6 Applicability, qualifications, and restrictions

§ 1:7 Applicability, qualifications, and restrictions—Applicability

§ 1:8 Applicability, qualifications, and restrictions—Qualifications

§ 1:9 Applicability, qualifications, and restrictions—Restrictions

§ 1:10 Publication

§ 1:13 Competition, procedures, and evaluation—Negotiated bidding

§ 1:14 Competition, procedures, and evaluation—Sole source

§ 1:15 Judicial and administrative proceedings

§ 1:16 Judicial and administrative proceedings—Bid protest

§ 1:17 Judicial and administrative proceedings—Claims

§ 1:18 Judicial and administrative proceedings—Oversight

### **III. THE EUROPEAN UNION**

§ 1:19 Introduction

§ 1:20 Overview

§ 1:21 Overview—Supply and works directive

§ 1:22 Overview—Utilities directive

§ 1:23 Overview—Further directives

§ 1:24 Overview—National security and defense spending

§ 1:25 Applicability, qualifications & restrictions

§ 1:26 Publication

§ 1:27 Competition procedures and evaluation

§ 1:28 Judicial and administrative proceedings

### **IV. CHINA, JAPAN, KOREA, AND INDIA**

§ 1:29 Introduction

§ 1:31 China—Overview

§ 1:32 China—Overview—The government procurement law

- § 1:33 China—Overview—World Trade Organization’s government procurement agreement
- § 1:34 China—Applicability, qualifications & restrictions
- § 1:35 China—Publication
- § 1:36 China—Competition procedures and evaluation
- § 1:38 Japan
- § 1:39 Japan—Applicability and qualifications
- § 1:40 Japan—Publication
- § 1:41 Japan—Competition procedures/evaluation
- § 1:42 Japan—Challenges to procurement & procurement oversight
- § 1:43 The Republic of Korea (“South Korea”)
- § 1:48 India
- § 1:49 India—Applicability, qualifications & restrictions
- § 1:50 India—Publication
- § 1:52 India—Judicial and administrative proceedings

## **V. BRAZIL, MEXICO, AND CHILE**

- § 1:53 Introduction
- § 1:54 Brazil
- § 1:55 Brazil—Overview
- § 1:56 Brazil—Applicability, qualifications & restrictions
- § 1:57 Brazil—Publication
- § 1:58 Brazil—Competition procedures and evaluation
- § 1:59 Brazil—Judicial and administrative proceedings
- § 1:61 Mexico—Overview
- § 1:62 Mexico—Applicability, qualifications & restrictions
- § 1:63 Mexico—Publication
- § 1:64 Mexico—Competition procedures and evaluation
- § 1:65 Mexico—Judicial and administrative proceedings
- § 1:67 Chile—Overview
- § 1:68 Chile—Applicability, qualifications & restrictions
- § 1:69 Chile—Publication
- § 1:70 Chile—Competition procedures and evaluation
- § 1:71 Chile—Judicial and administrative proceedings

## **VI. EGYPT, THE KINGDOM OF SAUDI ARABIA, AND THE UNITED ARAB EMIRATES**

- § 1:72 Introduction
- § 1:73 Egypt
- § 1:74 Egypt—Overview
- § 1:75 Egypt—Applicability, qualifications & restrictions
- § 1:76 Egypt—Publication
- § 1:77 Egypt—Competition procedures and evaluation
- § 1:78 Egypt—Judicial and administrative proceedings
- § 1:80 The Kingdom of Saudi Arabia—Overview
- § 1:81 The Kingdom of Saudi Arabia—Applicability, qualifications & restrictions
- § 1:82 The Kingdom of Saudi Arabia—Publication
- § 1:83 The Kingdom of Saudi Arabia—Competition procedures and evaluation

## TABLE OF CONTENTS

- § 1:84 The Kingdom of Saudi Arabia—Judicial and administrative proceedings
- § 1:85 United Arab Emirates (“UAE”)
- § 1:86 United Arab Emirates (“UAE”)—Overview
- § 1:87 United Arab Emirates (“UAE”)—Applicability, qualifications & restrictions
- § 1:88 United Arab Emirates (“UAE”)—Publication
- § 1:89 United Arab Emirates (“UAE”)—Competition procedures and evaluation
- § 1:90 United Arab Emirates (“UAE”)—Judicial and administrative proceedings

## **CHAPTER 2. FREE TRADE V. PROTECTIONISM IN THE UNITED STATES**

- § 2:1 Introduction
- § 2:2 Historical “Buy National” Legislation
- § 2:3 Historical “Buy National” Legislation—Defense Procurement vs. “Civilian” Procurement
- § 2:4 Historical “Buy National” Legislation—The “Buy American” Act
- § 2:5 Historical “Buy National” Legislation—The “Buy American” Act—Requirements of the BAA
- § 2:6 Historical “Buy National” Legislation—The “Buy American” Act—Unmanufactured articles
- § 2:7 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles
- § 2:8 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—Manufacturing
- § 2:9 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—End products and construction material versus components [*Retitled*]
- § 2:10 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—Substantially all rule
- § 2:11 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—Solicitation and contract provisions
- § 2:12 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—BAA exceptions
- § 2:13 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—BAA exceptions—Public interest
- § 2:14 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—BAA exceptions—Nonavailability
- § 2:15 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—BAA exceptions—Unreasonable costs
- § 2:17 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—Other U.S. buy national preferences—The Berry Amendment

INTERNATIONAL GOVERNMENT CONTRACT LAW

- § 2:18 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—Other U.S. buy national preferences—Specialty metals statute
- § 2:19 Historical “Buy National” Legislation—The “Buy American” Act—Manufactured articles—Other U.S. buy national preferences—American Recovery and Reinvestment Act
- § 2:21 The development of international free trade in government contracts—United States bilateral defense trade memoranda of understanding
- § 2:22 The development of international free trade in government contracts—Declaration of Principles
- § 2:23 The development of international free trade in government contracts—NATO member state and other MoUs
- § 2:24 The development of international free trade in government contracts—Other agreements (Israel, Singapore; Morocco)
- § 2:25 The development of international free trade in government contracts—The first multilateral free trade agreement: The General Agreement on Tariffs and Trade (“GATT”)
- § 2:27 The development of international free trade in government contracts—The first multilateral free trade agreement: The General Agreement on Tariffs and Trade (“GATT”)—Central GATT principles and procedures
- § 2:28 The development of international free trade in government contracts—The first multilateral free trade agreement: The General Agreement on Tariffs and Trade (“GATT”)—Central GATT principles and procedures—Government Contracting
- § 2:29 The development of international free trade in government contracts—The U.S. Trade Agreements Act and its implementation
- § 2:30 The development of international free trade in government contracts—The U.S. Trade Agreements Act and its implementation—Country of origin
- § 2:31 The development of international free trade in government contracts—The U.S. Trade Agreements Act and its implementation—Country of origin—Products—“Substantial transformation”
- § 2:33 The World Trade Organization (WTO) Government Procurement Agreement
- § 2:34 The World Trade Organization (WTO) Government Procurement Agreement—Purpose of the WTO
- § 2:35 The World Trade Organization (WTO)—The WTO Government Procurement Agreement
- § 2:36 The World Trade Organization (WTO) Agreement—The WTO Government Procurement Agreement—Coverage and Scope of the GPA
- § 2:37 The World Trade Organization (WTO) Government Procurement Agreement—GPA procedural obligations
- § 2:37.50 The World Trade Organization (WTO) Government Procurement Agreement—2012 revisions [*New*]
- § 2:38 The World Trade Organization (WTO) Government Procurement Agreement—Accession to the GPA
- § 2:39 Interplay between BAA and Trade Agreements Act
- § 2:40 The consequences of the “Defense Exemption”

TABLE OF CONTENTS

**CHAPTER 3. THE U.S. AS A MILITARY EXPORTER AND FINANCIER: UNITED STATES FOREIGN MILITARY SALES; DIRECT COMMERCIAL SALES; AND THE FOREIGN MILITARY FINANCING PROGRAM**

- § 3:1 Introduction
- § 3:2 Foreign military sales
- § 3:3 Foreign military sales—Major actors in the foreign military sales program
- § 3:4 Foreign military sales—Eligible foreign customers
- § 3:5 Foreign military sales—The foreign military sales process
- § 3:6 Foreign military sales—The foreign military sales process—Statutory and regulatory requirements
- § 3:7 Foreign military sales—Financing foreign military sales
- § 3:8 Foreign military sales—Financing foreign military sales—Cash sales
- § 3:9 Foreign military sales—Financing foreign military sales—“Dependable undertaking”
- § 3:10 Foreign military sales—Financing foreign military sales—Foreign military financing
- § 3:11 Foreign military sales—Financing foreign military sales—Direct commercial sales utilizing foreign military financing
- § 3:12 Foreign military sales—Financing foreign military sales—Direct commercial sales: U.S. government involvement
- § 3:13 Foreign military sales—Financing foreign military sales—Direct commercial sales: U.S. government involvement—The requirements of the program: Buy American
- § 3:14 Foreign military sales—Financing foreign military sales—Contractor’s certification and agreement
- § 3:15 Foreign military sales—Financing foreign military sales—Taxes applied in the FMF context
- § 3:16 Foreign military sales—Financing foreign military sales—FMF cash flow financing
- § 3:17 Foreign military sales—Congressional reporting requirements
- § 3:18 Legal issues related to FMS contracting
- § 3:19 Legal issues related to FMS contracting—Competition in the FMS context
- § 3:20 Legal issues related to FMS contracting—Binding effect of the SAMM
- § 3:21 Legal issues related to FMS contracting—Third party beneficiary rights of foreign governments
- § 3:22 Legal issues related to FMS contracting—Civil false claims act liability in FMS contracting

**CHAPTER 4. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT PROGRAMS**

- § 4:1 Introduction

- § 4:2 History and mission of USAID
- § 4:4 An overview of the different kinds of USAID contracting—  
Direct contracting
- § 4:5 An overview of the different kinds of USAID contracting—  
Grants and cooperative agreements
- § 4:6 An overview of the different kinds of USAID contracting—Host  
country contracts
- § 4:7 An overview of the different kinds of USAID contracting—  
Determination of appropriate vehicle
- § 4:8 Applicable regulations for particular USAID programs and how  
they work
- § 4:10 Applicable regulations for particular USAID programs and how  
they work—Assistance regulations
- § 4:11 Applicable regulations for particular USAID programs and how  
they work—Other types of contracting
- § 4:12 USAID direct contracting
- § 4:13 USAID direct contracting—Solicitation requirements
- § 4:14 USAID direct contracting—Bidding and award procedures
- § 4:15 USAID direct contracting—Bidding and award procedures—  
Negotiation of indirect cost rates
- § 4:16 USAID direct contracting—Bidding and award procedures—  
Contractor salary threshold
- § 4:17 USAID direct contracting—Bidding and award procedures—  
Other requirements and limitations
- § 4:18 USAID direct contracting—Post-award administration and  
responsibilities
- § 4:19 USAID direct contracting—Simplified acquisitions
- § 4:20 USAID direct contracting—Disputes and appeals
- § 4:22 USAID direct contracting—Special circumstances—Consultants  
and experts
- § 4:23 USAID direct contracting—Special circumstances—Contracting  
in emergency situations
- § 4:24 USAID assistance—Grants and cooperative agreements with  
non-governmental organizations
- § 4:25 USAID assistance—Deviations
- § 4:26 USAID assistance—Public notice and requests for applications
- § 4:27 USAID assistance—Public notice and requests for  
applications—Requests for applications
- § 4:28 USAID assistance—Public notice and requests for  
applications—Annual program statements
- § 4:29 USAID assistance—Competition
- § 4:30 USAID assistance—Competition—Eligibility
- § 4:31 USAID assistance—Competition—Evaluation criteria
- § 4:32 USAID assistance—Competition—Past performance
- § 4:33 USAID assistance—Competition—Branding and marking
- § 4:34 USAID assistance—Competition—Exceptions
- § 4:36 USAID assistance—Award of grants or cooperative  
agreements—Pre-award certifications
- § 4:37 USAID assistance—Award of grants or cooperative  
agreements—Pre-award responsibility determination
- § 4:38 USAID assistance—Award of grants or cooperative  
agreements—Cost sharing

## TABLE OF CONTENTS

- § 4:39 USAID assistance—Award of grants or cooperative agreements—Substantial involvement for cooperative agreements
- § 4:40 USAID assistance—Award of grants or cooperative agreements—Negotiation of award
- § 4:41 USAID assistance—Award of grants or cooperative agreements—Award process
- § 4:42 USAID assistance—Award administration
- § 4:43 USAID assistance—Award administration—Administrative duties
- § 4:44 USAID assistance—Award administration—Unauthorized commitments and expenditures
- § 4:45 USAID assistance—Award administration—Disputes and appeals
- § 4:46 USAID assistance—Grants and cooperative agreements with public international organizations
- § 4:47 USAID assistance—Grants to foreign governments
- § 4:48 USAID assistance—Grants to foreign governments—Agreement
- § 4:49 USAID assistance—Grants to foreign governments—Host country contribution
- § 4:50 Host country contracts
- § 4:51 Host country contracts—Approval of contracting steps
- § 4:52 Host country contracts—Competition requirements
- § 4:53 Host country contracts—Competition requirements—Technical and professional services
- § 4:54 Host country contracts—Competition requirements—Construction services
- § 4:55 Host country contracts—Competition requirements—Goods
- § 4:56 Host country contracts—Competition requirements—Waiver of competition requirements
- § 4:57 Host country contracts—Advertising
- § 4:58 Host country contracts—Mandatory contract requirements and clauses
- § 4:59 Host country contracts—Auditing and close-out provisions
- § 4:60 Host country contracts—Disputes
- § 4:61 Host country contracts—Socio-economic programs
- § 4:62 Host country contracts—Procurement under intermediate credit institutions
- § 4:63 Contracting-related requirements and restrictions
- § 4:64 Contracting-related requirements and restrictions—USAID geographic code system
- § 4:65 Contracting-related requirements and restrictions—Ineligibility of contractors
- § 4:66 Contracting-related requirements and restrictions—Restrictions on commodities
- § 4:67 Contracting-related requirements and restrictions—Restrictions on nationality of suppliers of services
- § 4:68 Contracting-related requirements and restrictions—Restrictions on employees
- § 4:69 Contracting-related requirements and restrictions—Branding/marketing
- § 4:70 Contracting-related requirements and restrictions—Cargo preference

- § 4:71 Contracting-related requirements and restrictions—Eligibility of delivery services
- § 4:72 Contracting-related requirements and restrictions—Eligibility of delivery services—Ocean shipment of goods
- § 4:73 Contracting-related requirements and restrictions—Eligibility of delivery services—Air travel and transportation
- § 4:76 Contracting-related requirements and restrictions—Insurance—Defense Base Act insurance
- § 4:77 Contracting-related requirements and restrictions—Insurance—Medical Evacuation Insurance (“MEDEVAC”)
- § 4:78 Contracting-related requirements and restrictions—Insurance—Marine insurance
- § 4:79 Contracting-related requirements and restrictions—Metric
- § 4:80 Post-procurement
- § 4:81 Post-procurement—Record-keeping requirements
- § 4:82 Post-procurement—Refunds
- § 4:83 Post-procurement—Suspension or termination
- § 4:84 Post-procurement—Disposal

## **CHAPTER 5. THE WORLD BANK PUBLIC PROCUREMENT SYSTEM**

- § 5:1 Introduction
- § 5:2 Overview of the World Bank public procurement system
- § 5:3 World Bank financed public procurement projects
- § 5:4 The World Bank Procurement Regulations [*Retitled*]
- §§ 5:5 to 5:20 [*Deleted*]

## **CHAPTER 6. PRIVATE FINANCING OF INTERNATIONAL GOVERNMENT CONTRACTS: LETTERS OF CREDIT**

- § 6:1 Introduction
- § 6:2 What is a letter of credit
- § 6:3 What is a letter of credit—Establishment of letters of credit
- § 6:4 What is a letter of credit—Cast of characters
- § 6:8 What is a letter of credit—Types of letters—Revocability
- § 6:9 What is a letter of credit—Governing regulations
- § 6:10 What is a letter of credit—Governing regulations—UCP 600
- § 6:11.50 What is a letter of credit—Governing regulations—ISP98 [*New*]
- § 6:14 Performance of a letter of credit
- § 6:17 Improper performance—Issuer’s liability—Wrongful payment
- § 6:19 Improper performance—Beneficiary’s liability
- § 6:20 Judicial intervention and the fraud rule
- § 6:21 Judicial intervention and the fraud rule—*Sztejn v. J. Henry Schroder Banking Corporation*
- § 6:23 Judicial intervention and the fraud rule—Codification and approval of *Sztejn*—Codification of *Sztejn* in the United States

## TABLE OF CONTENTS

- § 6:24 Judicial intervention and the fraud rule—Codification and approval of *Sztejn*—Influence of *Sztejn* outside the United States
- § 6:25 2013 Letters of credit cases *[New]*
- § 6:26 2014 Letters of credit cases *[New]*
- § 6:27 2015 Letters of credit cases *[New]*
- § 6:28 2016 Letters of credit cases *[New]*
- § 6:29 2017 Letters of credit cases *[New]*
- § 6:30 2018 Letters of credit cases *[New]*
- § 6:31 2019 Letters of credit cases *[New]*
- § 6:32 2020 Letters of credit cases *[New]*

## CHAPTER 7. THE UNCITRAL MODEL PROCUREMENT CODE

- § 7:1 Background of UNCITRAL
- § 7:2 Background of UNCITRAL—UNCITRAL membership
- § 7:3 Background of UNCITRAL—UNCITRAL organization
- § 7:4 Background of UNCITRAL—UNCITRAL Model Laws
- § 7:5 UNCITRAL'S Model Law on Public Procurement
- § 7:6 UNCITRAL'S Model Law on Public Procurement—Objectives of the Model Law
- § 7:7 UNCITRAL'S Model Law on Public Procurement—Scope of the Model Law
- § 7:8 UNCITRAL'S Model Law on Public Procurement—Procurement procedures under the Model Law
- § 7:9 UNCITRAL'S Model Law on Public Procurement—Procurement procedures under the Model Law—Open tendering
- § 7:10 UNCITRAL'S Model Law on Public Procurement—Procurement procedures under the Model Law—Other methods of procurement
- § 7:11 UNCITRAL'S Model Law on Public Procurement—Procurement procedures under the Model Law—Review procedures
- § 7:12 Procurement developments added to the 2011 Model Law
- § 7:13 Procurement developments added to the 2011 Model Law—E-procurement
- § 7:14 Procurement developments added to the 2011 Model Law—Abnormally low tenders
- § 7:15 Procurement developments added to the 2011 Model Law—Framework agreements
- § 7:16 Conclusion

## CHAPTER 8. OFFSETS IN THE WORLD OF INTERNATIONAL DEFENSE CONTRACTING

- § 8:1 Introduction
- § 8:2 Direct offsets
- § 8:3 Indirect offsets
- § 8:4 Direct vs. indirect offsets *[Retitled]*
- § 8:5 Multipliers
- § 8:6 Penalties
- § 8:8 U.S. government monitoring

- § 8:9 Legal issues: the Feingold Amendment
- § 8:10 Country case studies
- § 8:11 Country case studies—India
- § 8:12 Country case studies—United Arab Emirates
- § 8:13 Country case studies—Australia
- § 8:14 Conclusion

## **CHAPTER 9. EXPORT CONTROLS IN THE GLOBAL MARKET: A COMPARATIVE LAW ANALYSIS OF UNITED STATES, EUROPEAN UNION AND OTHER MAJOR DEFENSE AND HIGH TECHNOLOGY EXPORTING COUNTRIES**

- § 9:1 Export control landscape
- § 9:2 Export control landscape—United States
- § 9:3 Export control landscape—European Union
- § 9:4 Export control landscape—Fundamental similarities and differences between the U.S. and EU regimes
- § 9:7 Arms control: U.S. and EU regimes—Identification and classification of controlled items
- § 9:8 Arms control: U.S. and EU regimes—U.S. persons for ITAR purposes
- § 9:9 Arms control: U.S. and EU regimes—Registration, licensing and other approvals
- § 9:10 Arms control: U.S. and EU regimes—End use and end user analysis
- § 9:11 Arms control: U.S. and EU regimes—Recordkeeping requirements
- § 9:12 Arms control: U.S. and EU regimes—EU arms control regime
- § 9:13 Arms control: U.S. and EU regimes—Eight criteria for arms exports
- § 9:14 Arms control: U.S. and EU regimes—Operative provisions of the Common Position
- § 9:15 Arms control: U.S. and EU regimes—Transfers of defense related products within the EU
- § 9:16 Dual-use: U.S. and EU regimes
- § 9:17 Dual-use: U.S. and EU regimes—U.S. dual-use regime
- § 9:18 Dual-use: U.S. and EU regimes—U.S. dual-use regime—Key definitions
- § 9:19 Dual-use: U.S. and EU regimes—U.S. dual-use regime—The commerce control list
- § 9:20 Dual-use: U.S. and EU regimes—U.S. dual-use regime—“Catch-all” provision
- § 9:21 Dual-use: U.S. and EU regimes—U.S. dual-use regime—The commerce country chart
- § 9:22 Dual-use: U.S. and EU regimes—U.S. dual-use regime—Types of dual-use export licenses
- § 9:23 Dual-use: U.S. and EU regimes—U.S. dual-use regime—General prohibitions of the EAR
- § 9:24 Dual-use: U.S. and EU regimes—U.S. dual-use regime—The end-user for the export

## TABLE OF CONTENTS

- § 9:26 Dual-use: U.S. and EU regimes—U.S. dual-use regime—  
Exporter requirements
- § 9:27 Dual-use: U.S. and EU regimes—EU dual-use regime
- § 9:28 Dual-use: U.S. and EU regimes—EU dual-use regime—Key  
definitions
- § 9:29 Dual-use: U.S. and EU regimes—EU dual-use regime—EU  
dual-use export authorization requirements
- § 9:30 Dual-use: U.S. and EU regimes—EU dual-use regime—Types of  
dual-use export licenses
- § 9:31 Dual-use: U.S. and EU regimes—EU dual-use regime—Controls  
on brokering services related to dual-use items
- § 9:32 Dual-use: U.S. and EU regimes—EU dual-use regime—Member  
state transfer considerations inside and outside the EU
- § 9:33 Dual-use: U.S. and EU regimes—EU dual-use regime—  
Exporter requirements
- § 9:35 Enforcement—U.S. enforcement
- § 9:36 Enforcement—EU enforcement
- § 9:37 Other key export control regime: United Kingdom *[Retitled]*
- § 9:38 Other key export control regime: United Kingdom—Export  
control order 2008 *[Retitled]*
- § 9:39 Other key export control regime: United Kingdom—UK  
strategic export control lists *[Retitled]*
- § 9:40 Other key export control regime: United Kingdom—The UK  
licensing procedure *[Retitled]*
- § 9:41 Other key export control regime: United Kingdom—The UK  
licensing procedure—The types of licenses *[Retitled]*
- § 9:42 Other key export control regime: United Kingdom—The UK  
licensing procedure—Licensing criteria *[Retitled]*
- § 9:43 Other key export control regime: United Kingdom—Sanctions  
and enforcement *[Retitled]*
- § 9:45 Other key export control regimes: China and Russia—China  
export controls
- § 9:46 Other key export control regimes: China and Russia—China  
export controls—General licensing process
- § 9:48 Other key export control regimes: China and Russia—China  
export controls—Sanctions and enforcement
- § 9:49 Other key export control regimes: China and Russia—Russia  
export controls
- § 9:50 Other key export control regimes: China and Russia—Russia  
export controls—Arms export licensing process
- § 9:51 Other key export control regimes: China and Russia—Russia  
export controls—Dual-use export licensing process
- § 9:52 Other key export control regimes: China and Russia—Russia  
export controls—Sanctions and enforcement

## **CHAPTER 10. COMBATING INTERNATIONAL CORRUPTION IN INTERNATIONAL TRADE AND PUBLIC PROCUREMENT**

- § 10:1 Introduction
- § 10:3 The Foreign Corrupt Practices Act—Prohibited foreign trade  
practices by issuers

- § 10:4 The anti-bribery provisions
- § 10:5 The anti-bribery provisions—Anti-bribery elements
- § 10:6 The anti-bribery provisions—Anti-bribery elements—Covered parties
- § 10:7 The anti-bribery provisions—Anti-bribery elements—No territorial nexus is required for an FCPA violation
- § 10:8 The anti-bribery provisions—Anti-bribery elements—“Anything of value”
- § 10:9 The anti-bribery provisions—Anti-bribery elements—Knowledge
- § 10:10 The anti-bribery provisions—Anti-bribery elements—Foreign official
- § 10:11 The anti-bribery provisions—Anti-bribery elements—Corruptly/willful
- § 10:12 FCPA accounting provisions
- § 10:13 FCPA accounting provisions—Accounting provision elements
- § 10:14 FCPA accounting provisions—Potential criminal liability
- § 10:15 FCPA accounting provisions—SEC related rules
- § 10:16 FCPA accounting provisions—Examples of recent FCPA Anti-Bribery Enforcement Actions
- § 10:17 Organization for Economic Co-operation and Development
- § 10:18 Organization for Economic Co-operation and Development—OECD anti-bribery convention
- § 10:19 Organization for Economic Co-operation and Development—OECD anti-bribery convention—Operation of the OECD’s fight against corruption
- § 10:20 Organization for Economic Co-operation and Development—OECD enforcement actions

**CHAPTER 11. RESOLVING PERFORMANCE ISSUES UNDER INTERNATIONAL GOVERNMENT CONTRACTS: INTERNATIONAL ARBITRATION AND MEDIATION**

- § 11:2 Performance issues
- § 11:3 Performance issues—Government-furnished inputs
- § 11:4 International mediation: an emerging new tool
- § 11:5 International mediation: an emerging new tool—Advantages
- § 11:6 International mediation: an emerging new tool—Disadvantages
- § 11:7 International mediation: an emerging new tool—How parties agree on mediation
- § 11:9 International mediation: an emerging new tool—Mediation in different regions
- § 11:10 International commercial arbitration
- § 11:11 International commercial arbitration—Institutional rules
- § 11:12 International commercial arbitration—Ad hoc rules
- § 11:13 International commercial arbitration—Arbitration rules generally
- § 11:14 International commercial arbitration—Arbitration agreement and conduct of the arbitration

## TABLE OF CONTENTS

- § 11:15 International commercial arbitration—Arbitration agreement and conduct of the arbitration—Nationality of arbitrator
- § 11:16 International commercial arbitration—Arbitration agreement and conduct of the arbitration—Language of arbitration
- § 11:17 International commercial arbitration—Arbitration agreement and conduct of the arbitration—Choice of law
- § 11:18 International commercial arbitration—Arbitration agreement and conduct of the arbitration—Situs
- § 11:19 Comparative law and culture
- § 11:21 Comparative law and culture—Document production
- § 11:22 Comparative law and culture—Compelling discovery under 28 U.S.C. § 1782
- § 11:23 Enforcement mechanisms
- § 11:25 Enforcement mechanisms—New York Convention
- § 11:26 Enforcement mechanisms—New York Convention—Basic framework
- § 11:29 Enforcement mechanisms—New York Convention—New York Convention’s pro-enforcement policy
- § 11:30 International arbitration institutions and enforcement
- § 11:31 Foundational considerations for enforcement of awards in U.S. courts
- § 11:32 Foundational considerations for enforcement of awards in U.S. courts—Bringing an enforcement action under the New York Convention
- § 11:33 Foundational considerations for enforcement of awards in U.S. courts—Foreign sovereigns and their agents and instrumentalities
- § 11:34 Foundational considerations for enforcement of awards in U.S. courts—Foreign sovereigns and their agents and instrumentalities—Subject matter jurisdiction
- § 11:35 Foundational considerations for enforcement of awards in U.S. courts—Foreign sovereigns and their agents and instrumentalities—Personal jurisdiction
- § 11:36 Foundational considerations for enforcement of awards in U.S. courts—Foreign sovereigns and their agents and instrumentalities—Personal jurisdiction—Personal jurisdiction over foreign governments
- § 11:37 Foundational considerations for enforcement of awards in U.S. courts—Foreign sovereigns and their agents and instrumentalities—Personal jurisdiction—Personal jurisdiction over agencies or instrumentalities of foreign governments
- § 11:39 Denying enforcement in U.S. courts: how to avoid an unjust award—Obtaining a set aside
- § 11:40 Denying enforcement in U.S. courts: how to avoid an unjust award—Adjournment
- § 11:41 Enforcement after prior set aside outside the U.S.

## Appendix

Appendix A. Appendix for International Government Contracts Law

### Table of Laws and Rules

### Table of Cases

**Index**