

## STUDENT NOTES

### OPENING THE DOOR FOR ARBITRATION: VISITING THE ARBITRAL PROCEEDINGS OF A BOT DISPUTE IN TAIWAN WHEN FACED WITH PRELIMINARY ISSUES OF ADMINISTRATIVE DISPOSITIONS DISPUTES

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#### ABSTRACT

*Acknowledging that different countries may have different regulations with respect to the exercise of arbitration in resolving disputes arising from privately financed infrastructure projects, this paper explores the relevant regulations in Taiwan and focuses on how the arbitral proceedings should be conducted when an arbitral tribunal faces a dispute regarding the validity of an administrative disposition. This paper not only reviews the relevant rules about the arbitrability of an administrative disposition dispute in Taiwan, but also analyzes how the preliminary issue of the legality of an administrative disposition in a dispute would*

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*have an impact on the arbitral proceedings in Taiwan. By applying the analysis of this paper to privately financed infrastructure project dispute, this paper suggests that the dispute of pre-contract administrative disposition should not be arbitrable, but arbitral tribunals are entitled to review such a dispute if it is merely a preliminary issue instead of the subject matter in the given privately financed infrastructure project dispute.*

**KEYWORDS:** *arbitrability, arbitral proceeding, arbitration, preliminary issue, privately financed infrastructure projects, BOT, administrative agreement, administrative disposition, public policy, Legislative Guide, United Nations Commission on International Trade Law*