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China's New Arbitration Law: Conservative Internationalization

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Following three drafting sessions (2021, 2024 and 2025), the National People's Congress (NPC) has enacted an amendment to the Arbitration Law of the People's Republic of China (hereafter "*2025 Arbitration Law*") on 12 September 2025. The amended law will enter into force on 1 March 2026. A response to the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, the 2025 Arbitration Law responds to the reform task of "improving the arbitration system and the credibility of arbitration." The 2025 Arbitration Law primarily amends the international arbitration rules of China, particularly adding rules for *ad hoc* arbitration, seat of arbitration, and online arbitration. The law aims to internationalize the arbitration legal system in China and advance China's foreign-related rule of law process. The 2025 Arbitration Law, however, takes a conservative approach towards *ad hoc* arbitration, interim measures in arbitral proceedings, and the *competence-competence* doctrine. The law reflects China's intention to internationalize through measured steps as Chinese legislators seek a prudential path forward in international arbitration.

No. 1：Alignment of arbitral naming conventions with international norms.

The 2025 Arbitration Law introduces the term "arbitration institution" (*仲裁机构*) to China's arbitration legal regime in alignment with the international arbitration naming convention. Considering that most local arbitration institutions still use the traditional name, "arbitration commission" (*仲裁委员会*), the 2025 Arbitration Law provides that the term "arbitration institution" includes arbitration commissions, arbitration courts, and other legally established institutions (*Article 89*). In fact, regardless of the name of international arbitration institutions, arbitration "center," "court," or "committee" are equivalent to "commission" in Chinese courts. The legal practices in China show that the name of foreign arbitration institutions has little practical effect under Chinese law.

Meanwhile, many arbitration institutions in China have multiple names, as such under the 2025 Arbitration Law, the Beijing Arbitration Commission is modified to the Beijing International Arbitration Court and the Chongqing Arbitration Commission is now Chongqing Court of International Commercial Arbitration. This shift will serve to greatly facilitate the selection of Chinese arbitration institutions by international parties.

No. 2: Equal effect of offline and online arbitration proceedings. The 2025 Arbitration Law confirms the validity of online arbitration unless the parties expressly reject the possibility of online proceedings (*Art. 11*).

This measure is in line with the improvement of a worldwide network of information. Online arbitration has the potential to significantly save costs and time for the parties, improving the efficiency of arbitration. Notably, the 2025 Arbitration Law stipulates that online proceedings are valid unless one of the parties explicitly objects in contrast to the previous *2024 Draft* and *2025 Draft* which required the parties to explicitly consent to online arbitration. This change reflects the legislators' trade-offs and serves to build an efficient and low-cost arbitration system.

No. 3 : Clarification of the meaning and function of seat of arbitration.

Determining the "nationality" of an arbitral award for the purpose of enforcement proceedings has historically been ambiguous under Chinese law with some Chinese courts determining the nationality of awards based on the location of the arbitral institution administering the case. The 2025 Arbitration Law clarifies that the nationality of the arbitral award and the competent court are decided by the seat of arbitration. The law of the seat of arbitration shall also govern the arbitration procedure as well as the applicable law of arbitral procedure where the parties' have not provided an express choice of law.

If the parties have not agreed on the seat of arbitration or the agreement is unclear, the seat of arbitration shall be determined in accordance with the arbitration rules chosen by the parties. If the arbitration rules fail to provide, the arbitral tribunal shall determine the seat of arbitration according to the circumstances of the case and in accordance with the principle of facilitating dispute resolution (*Article 81*). The measure standardizes nationality determination for awards in Chinese court and maintains consistency with the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (1958 New York Convention) and international arbitration practice.

No. 4: Recognition of *ad hoc* arbitration with limits.

Before the 2025 amendment, China did not recognize *ad hoc* arbitration. In 2016, "*Three Special* arbitration regulations" (regarding special rules, special seat of arbitration, and special persons) were piloted in the Free Trade Zone (FTZ) according to the Opinion of Supreme People's Court on Providing Judicial Support for the Construction of Pilot Free Trade Zone. These measures marked a commendable exploration of *ad hoc* arbitration. Ten years later, the 2025 Arbitration Law finally relaxes the "institution arbitration only" restriction under some conditions.

First, the measure allows *ad hoc* arbitration for limited types of disputes. *Ad hoc* arbitration is only permissible for international maritime disputes or other transnational disputes. Consequently, domestic arbitration and other special arbitration, such as labor

or sports arbitration, may not be pursued on *ad hoc* terms.

Second, *ad hoc* arbitration may only be pursued by some types of parties. Only the parties which are incorporated in the Free Trade Pilot Zones(FTPZ) approved by The State Council, the Hainan Free Trade Port, and other areas, as prescribed by the state, may pursue *ad hoc* arbitrations. Parties registered outside those areas not yet permitted to select or pursue *ad hoc* arbitration.

Third, qualifying parties may only initiate *ad hoc* arbitration in a limited number of seats of arbitration and before a limited number of arbitrators. According to the 2025 Arbitration Law, China will only recognize *ad hoc* arbitrations which identify China as the seat of arbitration before arbitrators which meet the requirements in China's Arbitration Law.

Finally, all *ad hoc* arbitrations must be submitted for documentation to the *China Arbitration Association* within three working days of the composition of the tribunal. The *Shanghai Arbitration Association* (SHAA) has made the first case for the documentation of *ad hoc* arbitration in a foreign-related maritime arbitration in December 2025.

Evidently, the 2025 Arbitration Law establishes a conservative attitude towards *ad hoc* arbitrations in contrast with the *2021 Draft* which did not provide for the aforementioned limitations. Behind this "limited recognition" is the legislators' calm consideration of the national conditions. The step-by-step recognition of *ad hoc* arbitration balances innovation with stability in reform efforts.

No. 5: Support the arbitration institutions to "go global" and "bring in." For "bring-in," the 2025 Arbitration Law permits foreign arbitration institutions to establish business branches in the FTPZs, such as the *Hainan Free Trade Port* or other FTPZ approved by *The State Council,* and carry out foreign-related arbitration activities (*Article 86*). For "go global," the law encourages local arbitration institutions to establish branches in foreign jurisdictions with the aim of expanding the acceptance of international arbitration settlements. These changes reflect a more market-oriented policy towards international arbitration.

No. 6: Encourage local arbitration institutions and tribunals to accept international investment arbitration cases.

Though the 2025 Arbitration Law only applies to foreign-related civil and commercial disputes between equal parities (*Article 3*), it also encourages local arbitration institutions or arbitration tribunals to accept cases related to international investment arbitration by multilateral and bilateral treaties (*Article 94*). The law, therefore, indicates greater support for the involvement of local arbitration institutions in international investment arbitration.

No. 7: Establish a more arbitration-favored judicial environment.

First, the 2025 Arbitration Law encourages the international business sector to choose China (including the Special Administrative Region, SAR) as a seat of arbitration (*Article 87*). Arbitral awards are enforceable under the Civil Procedure Law of PRC or the Arrangement between Mainland China and Hong Kong or Macao. According to the Annual Report 2024 on Judicial Review of Commercial Arbitration issued by the Supreme People's Court, only three cases from Hong Kong, Macao and Taiwan were refused in mainland courts in 2024 (with 53 recognized and enforced and 6 withdrawn by the parties). This clearly demonstrates that mainland courts support arbitral resolutions of cross-border commercial disputes in Hong Kong, Macao, and Taiwan, thereby promoting deeper interregional judicial cooperation.

Second, the 2025 Arbitration Law allows applications for recognition and enforcement of foreign arbitral awards through a new mechanism. The parties may apply for recognition and enforcement in the Intermediate People's Court that has an appropriate connection to the award, beside the domicile of the applicant (*Article 88*). As a result, parties have more choices. Concurrently, Chinese courts have adopted an arbitration-friendly policy resulting in **zero** dismissals of the 42 cases initiated in 2024.

Despite the aforementioned progress in China's international arbitration rules, avenues for continued progress remain. First, arbitral tribunals have no power to grant interim measures in arbitration proceedings and are now dependent on competent courts for such measures (*Article 39*). The 2025 Arbitration Law removes provisions allowing arbitral tribunals to grant interim measures and the emergency arbitration mechanism introduced in the *2021 Draft*.

Second, the law maintains oversight by courts on the validity of arbitration agreements (*Article 31)*, meaning the *competence-competence* doctrine has not yet been fully recognized. The *2021 Draft* provisions which incorporated the *competence-competence* doctrine were removed from the 2025 Amendments.

Conclusion

International commercial arbitration is the most preferable alternative dispute resolution mechanism. Legislators and practitioners in China have given long, deliberate effort to align China's Arbitration Law more closely with international practice. Though still imperfect, the 2025 amendment displays China's posture of progressive advancement. The 2025 Arbitration Law will enhance the confidence of international and national parties in choosing international commercial arbitration as a means of dispute resolution, and further promote the internationalization of arbitration in China.

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