

IN-DEPTH

International Arbitration

CHINA



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International Arbitration

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In-Depth: International Arbitration (formerly The International Arbitration Review) provides an analytical overview of what has occurred in each of the important arbitration jurisdictions during the past year, capturing recent developments while putting them in the context of each jurisdiction's legal arbitration structure and selecting the most important matters for comment.

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Introduction

In a globalised world, international commercial subjects increasingly prefer arbitration to resolve disputes because of its confidentiality, speed, finality and full respect for the parties' autonomy. Since the State Council of the People's Republic of China decided to establish the China International Economic and Trade Arbitration Commission (CIETAC) in 1956, international arbitration in China has continued to develop.

In terms of legislation, the Arbitration Law of the People's Republic of China, enacted in 1994 and newly amended in 2017 and 2025, and provisions relating to arbitration in the Civil Procedure Law of the People's Republic of China, enacted in 1991 and newly amended in 2021 and 2023, are the main sources of law governing arbitration procedures in China.

In terms of judicial interpretations, in 2006, the Supreme People's Court promulgated the Judicial Interpretation of the Supreme People's Court on Some Issues Concerning the Application of the Arbitration Law of the People's Republic of China (amended in 2008), which provides specific and clear provisions on the validity of arbitration agreements, foreign-related arbitration, arbitral jurisdiction and judicial review of arbitral awards. In 2012, the Supreme People's Court promulgated the first Judicial Interpretation of the Supreme People's Court of the Law on the Application of Law to Foreign-related Civil Relations (amended in 2020), and further promulgated the second Judicial Interpretation in 2023. The Judicial Interpretation of the Supreme People's Court of the Civil Procedure Law of the People's Republic of China, enacted in 2015 and amended in 2020 and 2022, provides several provisions setting out the principle that a valid arbitration agreement excludes the jurisdiction of the court, and further standardises and refines the judicial review procedures over arbitral awards and procedures.^[1] On 23 February 2018, the Judicial Committee of the Supreme People's Court promulgated the Provisions on Several Issues Concerning the Handling of Arbitration Award Enforcement Cases by the People's Courts, which improved the enforcement system of arbitral awards in China.

In promoting the recognition and enforcement of inter-district arbitral awards, the Supreme People's Court has engaged in cooperation with Hong Kong, Macau and Taiwan. The Supreme People's Court promulgated the Arrangement on Mutual Enforcement of Arbitral Awards Between the Mainland and the Hong Kong Special Administrative Region and the Arrangement on Mutual Recognition and Enforcement of Arbitral Awards Between the Mainland and the Macau Special Administrative Region in 1999 and 2007, respectively. On 2 June 2015, the Supreme People's Court promulgated the Provisions on the Recognition and Enforcement of Arbitral Awards in Taiwan.

The above-mentioned laws, as well as judicial interpretations, form a legal system representing arbitration with Chinese characteristics, and play a decisive role in safeguarding and promoting the healthy development of China's arbitration system.

In China, there are four court levels: the primary, intermediate and high courts, in addition to the Supreme People's Court. The primary court will act as the first instance court in most cases; however, if the amount in dispute reaches a certain threshold or if the case is sufficiently influential on society, the intermediate or even high courts will have jurisdiction to hear the case as the first instance court. Specifically, according to the Judicial Interpretation of the Supreme People's Court on Some Issues Concerning the

Application of the Arbitration Law of the People's Republic of China, cases involving property preservation, the validity of arbitration agreements and enforcement of awards are under the jurisdiction of the intermediate people's courts.

In addition to the differences regarding the arbitration venue, rules and the length of proceedings, the differences in China between domestic and international commercial arbitration are as follows. First, there is no document production procedure in domestic arbitration in China, whereas, in international arbitration, both parties have the right to make a request for documents. Second, the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) distinguishes between institutional and ad hoc arbitration in the field of international arbitration. Ad hoc arbitration is a form of arbitration alongside institutional arbitration, meaning an arbitration tribunal is formed specifically for the purpose of settling a particular case and will dissolve after the completion of the case. China did not previously recognise ad hoc arbitration, but this position has been altered by the amended Arbitration Law in force since 1 March 2026, in particular, Article 82, which provides that two specific categories of disputes are eligible for ad hoc arbitration. This is the first time that ad hoc arbitration has been recognised at the legislative level in China; however, the scope still remains notably narrow. Third, in domestic arbitration proceedings in China, the arbitral tribunal generally does not have the right to directly make preservation orders. When a case is filed with the institution for the adoption of preservation (preservation of property, evidence or conduct), the arbitration institution shall submit the party's application to the competent court of the respondent's domicile or property location for a ruling. Nevertheless, pursuant to the arbitration rules adopted by certain arbitration commissions in China, the emergency arbitrator or the arbitral tribunal is empowered to directly make an order for the interim measures applied for by the parties.^[2]

In the post-pandemic era, coupled with the many changes brought about by the digital economy, international and domestic commercial arbitration cases in China face many opportunities and challenges. Embracing the principles of carbon neutrality and peak CO₂ emissions, changes including online filing and court hearings, together with electronic service of process, will not only play a positive role in future pandemic prevention and control but will also help ensure a greener and more environmentally friendly arbitration process.

In February 2022, the Asia-Pacific Economic Cooperation (APEC) officially launched the APEC Collaborative Framework for Online Dispute Resolution of Cross-Border Business-to-Business Disputes on its official website. The purpose of the online dispute resolution (ODR) platform is to help global businesses (in particular, micro, small and medium-sized enterprises) resolve cross-border disputes with technology-assisted dispute resolution services of 'negotiation, mediation and arbitration'.^[3] On 1 May 2022, CIETAC and the Guangzhou Arbitration Commission were officially listed by APEC as ODR providers. It is necessary to vigorously develop ODR services to meet the development of the digital economy. More importantly, it highlights the positive impact of enhancing the international influence of arbitration institutions in China through internet arbitration.

Following the State Council's issuance of the Overall Plan for the Lingang Area of China (Shanghai) Pilot Free Trade Zone in August 2019, on 7 September 2020, the State Council issued the Reply of the State Council on the Work Plan for Deepening the New Round of Comprehensive Pilot Project Expanding and Opening Up the Service Industry in Beijing and Building a National Comprehensive Demonstration Zone for Expanding and Opening Up the

Service Industry (State Letter [2020] No. 123). Since then, well-known foreign arbitration institutions and dispute resolution institutions are allowed to establish their business in specific areas in Beijing and Shanghai after completing the requisite registration and filing procedures. The establishment of foreign arbitral institutions in China will become a new trend to watch in the coming years.

Year in review

Developments affecting international arbitration

The enactment of the newly revised Arbitration Law

On 12 September 2025, the Standing Committee of the National People's Congress passed the amended Arbitration Law of the People's Republic of China, which came into force on 1 March 2026, representing the first comprehensive revision of the Law in 30 years. The new Law introduces the following principal reforms:

1. Recognition of the seat of arbitration: For the first time, the Law formally codifies the concept of the 'seat of arbitration' for foreign-related arbitrations (Article 81). The parties may agree on a seat in writing; the seat determines the applicable procedural law, the nationality of the award and the supervisory court. This fills a long-standing gap and aligns Chinese legislation with mainstream international arbitration practice.
2. Limited recognition of ad hoc arbitration: Article 82 permits ad hoc arbitration for two categories of foreign-related disputes: maritime disputes and disputes between enterprises registered within free trade zones or other designated areas in mainland China. This amendment has changed China's long-standing practice of recognising only institutional arbitration, enhancing the flexibility and professionalism of foreign-related arbitration, and marking a gradual alignment of China's international arbitration system with global standards;
3. Shortened time limit for setting aside awards: Article 72 stipulates that the time limit for applications to set aside arbitral awards has been reduced from six months (under the 2017 Arbitration Law) to three months from the date of receipt of the award, aligning with the UNCITRAL Model Law and accelerating finality.
4. Online arbitration: Article 11 establishes a formal legal framework for online arbitration, providing that arbitration may be conducted through information networks unless a party expressly objects. Online proceedings carry the same legal effect as offline proceedings. This shifts online arbitration from an opt-in to an opt-out default; and
5. Entry of foreign arbitration institutions: Article 86 allows foreign arbitration institutions to establish offices and administer foreign-related arbitration cases in pilot-free trade zones in mainland China, the Hainan Free Trade Port and other areas approved by the State Council.

Civil Code

The Civil Code, effective since 1 January 2021, has stipulated several provisions regarding PRC arbitration practice.

On 1 January 2021, the Civil Code of the People's Republic of China was officially implemented, marking a significant milestone for the PRC's legal development. There are 18 articles therein featuring the following provisions, which:

1. affirm that arbitration institutions have jurisdiction over specific disputes – in accordance with the relevant provisions of the Civil Code, the parties have the right to request that an arbitration institution cancel, adjust or terminate an agreement under certain circumstances; namely a significant misunderstanding, fraud, coercion, apparent injustice, substantial change of circumstances, statutory termination of the contract or adjustment of liquidated damages, etc.;
2. affirm that the arbitration institution's legal documents can have binding legal effects capable of modifying existing rights and obligations – Article 229 of the Civil Code stipulates that if the establishment, change, transfer or elimination of a real property right is caused by a legal decision from the people's court, an arbitration institution or a government expropriation authority, it will take effect when the said decision takes effect;
3. confirm that arbitration can be used as a dispute resolution method for disputes relating to property rights and property services; and
4. set the statutory period for commencing arbitration to be the same as that for litigation unless the law provides otherwise. Notably, for disputes arising out of the international sales of goods or technology import and export agreements, the statutory period to commence an arbitration action is four years.

Revision to the Arbitration Rules

CIETAC

The CIETAC's 2024 Arbitration Rules have been effective since 1 January 2024. Key features of the amendments include:

1. emphasis on party autonomy;
2. broader procedural powers for arbitral tribunals;
3. regulation of abusive procedural behaviour;
4. enhanced fairness and due process in arbitration; and
5. greater flexibility, efficiency, and transparency in arbitral proceedings.

Shanghai International Arbitration Centre

The Shanghai International Arbitration Centre's new arbitration rules have been effective since 1 January 2024, representing the culmination of a decade of development following the China (Shanghai) Pilot Free Trade Zone Arbitration Rules of 2014. The updated framework includes a primary set of arbitration rules, two ad hoc arbitration rules and two procedural guides, totalling over 45,000 words.

Hong Kong International Arbitration Centre

The Hong Kong International Arbitration Centre's (HKIAC) 2024 Administered Arbitration Rules have been effective since 1 June 2024. The Rules have introduced robust powers and responsibilities for arbitral tribunals and the HKIAC, focusing on deterring guerrilla tactics and other practices that hinder the swift and cost-effective resolution of disputes, ensuring procedural fairness and efficiency. For the first time, the Rules explicitly address considerations of diversity, environmental impact and information security.

These revisions to the arbitration rules have enhanced the level of professionalism of arbitration services in China and further brought them into line with international practice.

Arbitration developments in local courts

Supreme People's Court releases reference case details

On 16 January 2024, the Supreme People's Court released 10 representative cases of judicial review in arbitration. These cases cover a wide range of issues, including applications for the recognition and enforcement of foreign arbitral awards, the recognition and enforcement of Hong Kong arbitral awards, and the setting aside of arbitral awards. The subject matter spans areas such as sports arbitration and financial arbitration, addressing issues such as the validity of arbitration clauses in online lending platforms and arbitrators' disclosure obligations. These cases provide valuable references for courts handling similar disputes.

Supreme People's Court releases cases supporting Hong Kong arbitration

On 5 September 2024, the Supreme People's Court published a collection of typical cases supporting Hong Kong arbitration. These cases involve applications for confirming the validity of Hong Kong-related arbitration agreements, preservation measures in aid of Hong Kong arbitration, and the recognition and enforcement of Hong Kong arbitral awards. The rulings reflect mainland courts' commitment to supporting Hong Kong arbitration and promoting high-quality international arbitration. By the end of 2025, HKIAC had submitted a total of 178 preservation assistance applications to mainland courts, involving claims totalling 45.3 billion yuan.

Supreme People's Court Annual Report on Judicial Review of Commercial Arbitration^[4]

On 28 December 2025, the Supreme People's Court issued the 2024 Annual Report on Judicial Review of Commercial Arbitration. The report provides a comprehensive overview

of the judiciary's initiatives and achievements in supporting and supervising arbitration in 2024:

1. Overall caseload: In 2024, courts across China concluded 18,566 commercial arbitration judicial review cases. Of these, 104 concerned recognition and enforcement of foreign arbitral awards.
2. Inter-district judicial assistance: In 2024, courts concluded 62 applications for recognition and enforcement of arbitral awards from Hong Kong, Macau and Taiwan, granting 53 of them.
3. Enforcement of foreign arbitral awards: In 2024, the courts concluded 42 applications for recognition and enforcement of foreign arbitral awards, covering awards by institutions from 15 countries. There were no cases in which recognition or enforcement was refused, reflecting the courts' principled application of the New York Convention.

Investor–state disputes^[5]

As Chinese outbound foreign direct investment continues to grow, Chinese investors are increasingly willing to file investor–state dispute settlement (ISDS) claims against foreign states. Currently, there are eight known ISDS disputes where Chinese investors are claimants, one of which was filed in 2024.

The most significant development in ISDS cases involving China concerns *Hela Schwarz GmbH v. People's Republic of China* (ICSID Case No. ARB/17/19), brought under the China–Germany BIT. After more than eight years of proceedings, including a five-day hearing held in London in December 2022, the tribunal issued its final award on 10 December 2025, dismissing all of Hela Schwarz's claims in their entirety.

The tribunal's decision turned on three principal grounds. First, with respect to the direct expropriation claim, the tribunal joined the respondent's jurisdictional objection under Ad Article 9(c) of the Protocol – a qualified fork-in-the-road provision – to its liability analysis, making the admissibility of the claim contingent on whether the claimant could establish a denial of justice in the Chinese court proceedings. The tribunal ultimately held that the summary dismissal of the claimant's administrative challenge by the Jinan Intermediate People's Court and the Shandong High People's Court, whilst contested, did not give rise to the exacting standard of a manifest and egregious violation of due process required to establish denial of justice under international law, particularly given the existence of credible competing expert evidence on the relevant question of Chinese law. The direct expropriation claim accordingly fell. Second, the claimant's indirect expropriation claim, insofar as it was grounded in the cancellation of its food production licence, was dismissed on jurisdictional grounds for failure to exhaust the applicable administrative review procedure under Ad Article 9(a) of the Protocol; and the remainder of the indirect expropriation claim, shorn of the food licence element, was found to be materially indistinguishable from the direct expropriation claim and fell with it. Third, the fair and equitable treatment claim was dismissed as it disclosed no sustainable cause of action independent of the expropriation claims already dismissed.

The *HeLa* award is the first known final award rendered against China in an ISDS proceeding and is of considerable significance to the development of Chinese BIT practice. The case illustrates both the procedural complexity that attends ISDS claims against China – particularly the interaction between domestic court proceedings and the fork-in-the-road mechanism under Chinese BITs – and the high threshold that claimants must surmount to establish denial of justice before an international tribunal.

Outlook and conclusions

China's arbitration landscape has entered a period of significant transformation. The newly revised Arbitration Law signals China's commitment to aligning its arbitration regime with international standards. The legislative recognition of the seat of arbitration and ad hoc arbitration, and the opening of designated areas to foreign arbitration institutions all represent meaningful steps toward the modernisation of Chinese arbitration. At the same time, the Supreme People's Court's firmly pro-arbitration judicial stance and the deepening cross-border cooperation between mainland courts and arbitration institutions in Hong Kong and other jurisdictions together constitute the core driving forces behind China's arbitration modernisation.

Meanwhile, technological advancement holds the potential to fundamentally reshape arbitral proceedings. The blockchain-enabled evidence authentication, the AI-assisted case management and the development of online arbitration collectively point toward a more dynamic, accessible and forward-looking arbitration ecosystem in China. Looking ahead, China is well-positioned to consolidate its standing as a leading venue for international dispute resolution and to play an increasingly influential role in the global arbitration landscape.

Endnotes

- 1 Jingdong Liu, *Justice: a strong supporter of the development of arbitration in China* (The People's Rule of Law, 2018), at 3, http://iolaw.cssn.cn/yw/2018/201805/t20180508_4659024.shtml. ^ [Back to section](#)
- 2 See Beijing Arbitration Commission/Beijing International Arbitration Centre Arbitration Rules (effective as of 1 February 2022), Article 62; China International Economic and Trade Arbitration Commission Arbitration Rules (effective as of 1 January 2015), Article 23; and Shanghai Arbitration Commission Arbitration Rules, Article 28. ^ [Back to section](#)
- 3 [APEC Collaborative Framework for Online Dispute Resolution of Cross-Border Business-to-Business Disputes – Endorsed](#), Point 1. ^ [Back to section](#)
- 4 The Supreme People's Court of the People's Republic of China, <https://www.court.gov.cn/zixun/xiangqing/485071.html>, accessed 24 March 2026. ^ [Back to section](#)

- 5 International Centre for Settlement of Investment Disputes (ICSID) cases database, *Hela v. PRC*, <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/17/19>, accessed 23 March 2026. ^ [Back to section](#)

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