This country-specific Q&A provides an overview of international arbitration laws and regulations applicable in China.

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1. What legislation applies to arbitration in your country? Are there any mandatory laws?

In mainland China ("China"), there is a range of codified laws that apply to the arbitration. The core legislation is the Arbitration Law of the People’s Republic of China (the “PRC Arbitration Law”) along with the Interpretation of the Supreme People’s Court on Certain Issues relating to Application of the Arbitration Law of the People’s Republic of China (the “Interpretation of the PRC Arbitration Law”).

In addition, there are other judicial interpretations made by the Supreme People’s Court of the People’s Republic of China which apply to more detailed and specific areas relating to arbitration, such as the judicial review (e.g. the validity of arbitration agreements, enforcement of arbitral awards, etc.) and judicial assistance (e.g. the reciprocal enforcement of arbitral awards, judicial assistance in the enforcement of interim measures) of arbitration proceedings, etc.

2. Is your country a signatory to the New York Convention? Are there any reservations to the general obligations of the Convention?

Yes, China is a Contracting State of the New York Convention and has made two reservations. Firstly, China will apply the New York Convention, only on the basis of reciprocity, to the recognition and enforcement of arbitral awards made in the territory of another Contracting State (reciprocity reservation). Secondly, China will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the People’s Republic of China (commercial reservation).

3. What other arbitration-related treaties and conventions is your country a party to?

In addition to the New York Convention, China has signed the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, the United Nations Convention on International Settlement Agreements Resulting from Mediation. China has also signed a series of judicial assistance treaties with a range of countries/areas and some of which apply to the enforcement of the arbitral awards issued in the contracting states.

4. Is the law governing international arbitration in your country based on the UNCITRAL Model Law? Are there significant differences between the two?

China is not a UNCITRAL Model Law jurisdiction. One of the significant differences is that, in principle, PRC law does not recognize ad hoc arbitration but only institutional arbitration. However, article 9 of the Opinions of the Supreme People’s Court on Providing Judicial Safeguard for the Development of Free Trade Zones stipulated that if enterprises registered in Free Trade Zones agree with each other to arbitrate the relevant disputes by designated personnel at a designated location in China (not necessarily in Free Trade Zones) according to designated arbitration rules, such arbitration agreement can be held valid by the People’s Court. Other differences can be seen in issues relating to service, power of the court and the arbitral tribunal, interim measures, etc.

5. Are there any impending plans to reform the arbitration laws in your country?

Yes. The PRC’s Ministry of Justice released the proposed revisions to the PRC Arbitration Law (the “Proposed
Revision”) for public consultation during July to August 2021. The main proposed revisions have been seen regarding the tribunal’s power to grant interim measures, adopting ad hoc arbitration in foreign-related arbitration, adopting the competence-competence principle, enhancing the concept to the seat of arbitration, etc.

6. **What arbitral institutions (if any) exist in your country? When were their rules last amended? Are any amendments being considered?**

There are more than 200 arbitration institutions (called arbitration commissions in most cases) in China. China International Economic and Trade Arbitration Commission (the “CIETAC”) is the most well-known one. The current arbitration rules of the CIETAC are the China International Economic and Trade Arbitration Commission (the “CIETAC”) Arbitration Rules (2015).

7. **Is there a specialist arbitration court in your country?**

No.

8. **What are the validity requirements for an arbitration agreement under the laws of your country?**

The PRC Arbitration Law Article 16

An arbitration agreement shall include arbitral clauses stipulated in the contract and other written agreements that request arbitration to be made prior to or following the occurrence of a dispute.

An arbitration agreement shall include the following:

1. the expression of an application for arbitration;
2. items for arbitration;
3. the chosen arbitration commissions.

Please refer to Question 4 for the exception rule of the validity requirements for arbitration in the Free Trade Zones in China.

It is worth noting that in the Proposed Revision, the second and third requirements are removed.

9. **Are arbitration clauses considered separable from the main contract?**

Yes.

The PRC Arbitration Law Article 19

An arbitration agreement shall exist independently and its validity shall not be affected by changes, dissolution, termination, or invalidity of the contract.

10. **Do the courts of your country apply a validation principle under which an arbitration agreement should be considered valid and enforceable if it would be so considered under at least one of the national laws potentially applicable to it?**

Under PRC law, the validation principle may apply to the foreign-related or foreign arbitration agreements, if the parties do not expressly agree on the governing law of the arbitration agreement.

The Provisions of the Supreme People’s Court on Several Issues relating to the Hearing of Cases Involving Judicial Review of Arbitration Article 14

Where the people’s court identifies the law applicable to determine the validity of a foreign-related arbitration agreement according to Article 18 of the Law of the People’s Republic of China on the Application of Laws to Foreign-related Civil Relations, and the parties concerned have not chosen such law, if there is a difference by applying the law at the place where the arbitration agency is located and by applying the law at the place of arbitration, the people’s court shall make a decision of the law to be applied to the validity of the arbitration agreement.

11. **Is there anything particular to note in your jurisdiction with regard to multi-party or multi-contract arbitration?**

There is no express provision in the relevant arbitration legislation but such an issue has been regulated by the arbitration rules of some arbitration commissions (the CIETAC, etc.).

12. **In what instances can third parties or non-signatories be bound by an arbitration agreement? Are there any recent court
decisions on these issues?

The Interpretation of the Supreme People’s Court on Certain Issues relating to Application of the Arbitration Law of the People’s Republic of China Article 9

An arbitration agreement shall bind a transferee of any creditor rights and debts transferred whether in whole or in part, unless the parties agreed otherwise, or where the transferee clearly objected or was unaware of the existence of a separate arbitration agreement at the time of the transfer.

In practice, some arbitration commissions also have their own rules on joinder of additional parties but require that the arbitration shall proceed only if and to the extent that it is satisfied, prima facie, that an arbitration agreement may exist or all parties have agreed to arbitrate.

13. Are any types of dispute considered non-arbitrable? Has there been any evolution in this regard in recent years?

The PRC Arbitration Law Article 3

The following disputes shall not be subject to arbitration:

1. disputes concerning marriage, adoption, custody, fostering, and succession;
2. administrative disputes which shall, in accordance with the law, be dealt with by administrative bodies.

In addition to the above statutory provision, the PRC Supreme Court ruled in 2019 that whether a certain action constituted a monopoly was not arbitrable.

14. Are there any recent court decisions in your country concerning the choice of law applicable to an arbitration agreement where no such law has been specified by the Parties?

Under the PRC law, should it be a purely domestic case (i.e. domestic transaction involving domestic parties only) the applicable law shall be the PRC law, i.e. the parties do not have the right to choose a foreign law.

For foreign-related cases, it is expressly stipulated under Article 14 of the Provisions of the Supreme People’s Court on Several Issues relating to the Hearing of Cases Involving Judicial Review of Arbitration that in circumstance that the parties have not chosen the applicable law of the arbitration agreement, if there is a difference by applying the law at the place where the arbitration institution is located and by applying the law at the seat of arbitration, the people’s court shall apply the law which will validate the arbitration agreement.

15. How is the law applicable to the substance determined? Is there a specific set of choice of law rules in your country?

In principle, the parties cannot choose foreign law as the governing law if the subject matter is a purely domestic one (i.e. domestic transaction involving domestic parties only).

However, in foreign-related commercial transactions, the parties can freely agree to apply foreign laws in accordance with the Law of the People’s Republic of China on the Application of Laws to Foreign-related Civil Relations.

Nevertheless, such a choice is still subject to certain limitations. As in some areas, PRC law is mandatorily applied even if the subject matters are foreign-related.

For example, as per Article 467 of the PRC Civil Code, Sino-foreign equity joint venture contracts, Sino-foreign cooperative enterprise contracts, and Sino-foreign contracts for the cooperative exploitation and development of natural resources which are to be performed within the territory of China shall be governed by PRC law.

16. Have the courts in your country applied the UNIDROIT or any other transnational principles as the substantive law? If so, in what circumstances have such principles been applied?

Yes, if the parties agree on the application of such transnational principles and such an agreement does not violate the mandatory PRC law, the courts will respect the party autonomy.

17. In your country, are there any restrictions in the appointment of arbitrators?


An arbitration commission shall select as its arbitrators who are honest and just.

An arbitrator shall fulfil one of the following
requirements:

1. obtained legal professional qualification upon passing the national unified legal professional qualification examination, and has undertaken arbitration work for eight years;
2. a full eight years as a lawyer;
3. has been appointed as a judge for eight years;
4. involvement in legal research or teaching as well as holding a senior academic title;
5. involvement in economics and trade and possessing an understanding of the law as well as having a senior academic title or its specialised equivalent.

An arbitration commission shall prepare an arbitration register of names according to specialisation.

In practice, arbitration commissions may also make further stricter restrictions

18. Are there any default requirements as to the selection of a tribunal?

The PRC Arbitration Law Article 30

An arbitral tribunal may consist of three arbitrators or one arbitrator. If it is composed of three arbitrators, there shall be a presiding arbitrator.

Article 34

An arbitrator shall be withdrawn from the case and the parties concerned shall have the right to request such withdrawal for any of the following reasons:

1. the arbitrator is a disputing party or an immediate relative of the parties to the case or their agents;
2. the arbitrator has a personal interest in the case;
3. the arbitrator has some other relationship with the parties to the case or their agents which may affect the case to be arbitrated fairly;
4. the arbitrator has had private meetings with the parties concerned or their agents, or has accepted gifts or has attended banquets provided by the parties concerned or their agents.

In practice, arbitration commissions may also make further stricter rules and set forth detailed procedural rules regarding such challenges.

19. Can the local courts intervene in the selection of arbitrators? If so, how?

No express codified law on this issue. There were some cases in which courts set aside and/or refused enforcement of the arbitral awards on the ground that arbitrators were not independent or impartial.

20. Can the appointment of an arbitrator be challenged? What are the grounds for such challenge? What is the procedure for such challenge?

The PRC Arbitration Law Article 34.

An arbitrator shall be withdrawn from the case and the parties concerned shall have the right to request such withdrawal for any of the following reasons:

1. the arbitrator is a disputing party or an immediate relative of the parties to the case or their agents;
2. the arbitrator has a personal interest in the case;
3. the arbitrator has some other relationship with the parties to the case or their agents which may affect the case to be arbitrated fairly;
4. the arbitrator has had private meetings with the parties concerned or their agents, or has accepted gifts or has attended banquets provided by the parties concerned or their agents.

In practice, arbitration commissions may also have further stricter rules and set forth detailed procedural rules regarding such challenges.

21. Have there been any recent developments concerning the duty of independence and impartiality of the arbitrators

Such duty is generally mentioned in the arbitration rules of arbitration commissions in China and some arbitration commissions have issued a code of conduct in this respect.

22. Have there been any recent decisions in your concerning arbitrators’ duties of disclosure, e.g., similar to the UK Supreme
Court Judgment in Halliburton v Chubb?

It has been seen some cases that the courts set aside or refused enforcement of the arbitral awards based on the facts that the arbitrators had failed to disclose potential conflicts with the appointing parties, e.g. the arbitrator and the counsel were colleagues or had previous business relationship, etc.

In those cases, the courts held that should the undisclosed conflicts of interest were so serious that might affect the case to be arbitrated fairly, the arbitral award shall be set aside and shall not be enforced.

23. What happens in the case of a truncated tribunal? Is the tribunal able to continue with the proceedings?

The PRC Arbitration Law Article 37.

Where an arbitrator is to be withdrawn or is unable to perform his/her duties due to other reasons, a further arbitrator shall be chosen or appointed in accordance with the relevant provisions of this Law.

Where the reselection or reappointment of an arbitrator is made due to withdrawal, the parties concerned may apply for the proceedings to be commenced again, but this shall be decided by the arbitration tribunal. An Arbitration tribunal may also make its own decision as to whether or not arbitral proceedings shall recommence.

In practice, arbitration commissions may also have more detailed procedural rules.

24. Are arbitrators immune from liability?

The PRC Arbitration Law Article 38

Where a situation is serious that the arbitrator has had private meetings with the parties concerned or their agents, or has accepted gifts or has attended banquets provided by the parties concerned or their agents, or the arbitrator has accepted bribes, resorted to deception for personal gain or perverted the course of justice by the award, that arbitrator shall bear legal responsibility in accordance with the law and shall be removed from the panel of arbitrators by the arbitration commission.

The Criminal Law of the People’s Republic of China

Article 399 (A) [Crime of Perverting the law in Arbitration] Where anyone who undertakes the duties of arbitration in accordance with the law makes any wrongful ruling purposely in violation of the facts and laws in the activities of arbitration, in case the circumstances are serious, he shall be sentenced to not more than three years of fixed-term imprisonment or criminal detention. If the circumstances are particularly serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

25. Is the principle of competence-competence recognized in your country?

Arbitration commissions (not the arbitral tribunals) may rule on their own jurisdiction. However, the courts may intervene in such a process.

The PRC Arbitration Law Article 20

If a party challenges the validity of the arbitration agreement, he may request the arbitration commission to make a decision or apply it to the people’s court for a ruling. If one party requests the arbitration commission to make a decision and the other party applies to the people's court for a ruling, the people's court shall give a ruling.

It is worth noting that the Proposed Revisions aims to adopt the competence-competence principle and empowers the arbitral tribunal to rule on its own jurisdiction. However, it also allows a party to apply to the court for reviewing of the tribunal’s decision on its jurisdiction.

26. What is the approach of local courts towards a party commencing litigation in apparent breach of an arbitration agreement?

The PRC Arbitration Law Article 5

If the parties have concluded an arbitration agreement and one party submits the same dispute to a court, the court shall not accept the case, unless the arbitration agreement is null and void.

27. How are arbitral proceedings commenced in your country? Are there any key provisions under the arbitration laws relating to limitation periods or time bars of which the parties should be aware?

The PRC Arbitration Law Article 74

If a time bar for arbitration is provided by law, such
provision shall apply. In the absence of such provision, the time bars for litigation shall apply to the arbitration.

Under the PRC law, generally, the statutory of limitation is three years although in some circumstances, specific statutory of limitation (either shorter or longer than three years) shall apply.

In China, to commence arbitral proceedings, one shall submit an arbitration application to the arbitration commission chosen under the arbitration agreement. The application shall specify the following items (Articles 21 to 23 of the Arbitration Law):

1. The names and addresses of the Claimant and the Respondent, including the zip code, telephone, fax, email, or any other mean of electronic telecommunications;
2. A reference to the arbitration agreement that is invoked;
4. Evidence and sources of that evidence.

28. In what circumstances is it possible for a state or state entity to invoke state immunity in connection with the commencement of arbitration proceedings?

China has signed but has not ratified the United Nations Convention on Jurisdictional Immunities of States and Their Property. China has not given up absolute immunity and adopted restricted immunity.

29. What happens when a respondent fails to participate in the arbitration? Can the local courts compel participation?

The PRC Arbitration Law Article 42

If the respondent fails to appear before the arbitration tribunal without justified reasons after having been notified in writing or leaves the hearing prior to its conclusion without the permission of the arbitration tribunal, a default award may be made.

30. Can third parties voluntarily join arbitration proceedings? If all parties agree to the intervention, is the tribunal bound by this agreement? If all parties do not agree to the intervention, can the tribunal allow for it?

No express codified law in this regard. Some arbitration commissions have made the relevant rules. In practice, if all parties agree to the intervention, the arbitral tribunal will respect party autonomy, vice versa.

31. Can local courts order third parties to participate in arbitration proceedings in your country?

No.

32. What interim measures are available? Will local courts issue interim measures pending the constitution of the tribunal?

As per the civil procedural rules under PRC law, parties may apply for property preservation, evidence preservation, and conduct preservation when appropriate.

Under the PRC Arbitration Law, there is no specific provision of interim measures except for property preservation and evidence preservation. If a party applies for such preservation in accordance with PRC law, arbitration commissions shall transfer the party’s application to the competent court (the arbitral tribunal has no power to make the decision). Meanwhile, the arbitral tribunal may make the decision pursuant to the specific rules made by the arbitration commission of those interim measures that are not provided in the law. However, such a decision has been rarely seen in practice.

It is worth noting that as per the Proposed Revisions, arbitral tribunals also have the power to grant interim measures.

33. Are anti-suit and/or anti-arbitration injunctions available and enforceable in your country?

Under PRC law, there are no anti-suit and/or anti-arbitration injunctions. The courts generally refused to recognize the anti-suit injunction issued by courts/tribunals in other legal regimes. In HUATAI PROPERTY & CASUALTY INSURANCE CO LTD, SHENZHEN BRANCH v CLIPPER CHARTERING SA case, the Wuhan Maritime Court of China even ordered the respondent to apply to the High Court of the HKSAR to withdraw the anti-suit injunction issued by the court.

However, the Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of
Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region came into force on 1 October 2019. Article 1 stated that the interim measures referred to in this Arrangement include, in the case of the HKSAR, injunction, and other interim measures.

Such provision has expanded the scope of the application for interim measures to some extent and includes the injunctions issued in the HKSAR within the scope of interim measures.

34. Are there particular rules governing evidentiary matters in arbitration? Will the local courts in your jurisdiction play any role in the obtaining of evidence? Can local courts compel witnesses to participate in arbitration proceedings?

No particular rules governing evidentiary matters in arbitration and local courts cannot compel witnesses to participate in arbitration proceedings.

The Several Provisions of the Supreme People’s Court on Evidence for Civil Actions (Amended in 2019) may be applied to arbitration proceedings as general rules.

Please also refer to the answer under Questions 31 and 32.

35. What ethical codes and other professional standards, if any, apply to counsel and arbitrators conducting proceedings in your country?

As far as lawyers are concerned, there are laws and regulations such as the Law of the People’s Republic of China on Lawyers under PRC Law, which stipulates the professional ethics of lawyers in principle. The local lawyers’ associations also have their own rules to regulate the ethics of lawyers.

As far as arbitrators are concerned, apart from that mentioned in Questions 17, 18 and 24, there is no expressed codified law. However, many arbitration committees have developed their code of conduct for arbitrators.

36. In your country, are there any rules with respect to the confidentiality of arbitration proceedings?

The PRC Arbitration Law Article 40

The arbitration shall be conducted in camera. If the parties agree to public arbitration, the arbitration may be public unless State secrets are involved.

In practice, arbitration commissions may have more detailed rules in this regard.

37. Are there any recent decisions in your country regarding the use of evidence acquired illegally in arbitration proceedings (e.g. ‘hacked evidence’ obtained through unauthorized access to an electronic system)?

There is no reported case directly related to arbitration proceedings. Generally speaking, in civil procedures, evidence obtained through a serious violation of the lawful rights and interests of others will not be accepted. Such a serious violation may be including but not limited to entrapment, infringement of privacy, etc.

38. How are the costs of arbitration proceedings estimated and allocated?

The State Council of the People’s Republic of China issued Fee Charging Standard on Arbitration Commissions. Each arbitration commission has its own ad valorem schedule of fees. Recently, there has been some development of promoting an hourly-rate fee-charging mechanism for the arbitrators’ fees.

For example, as per the arbitration rules of the CIETAC, for arbitration cases administered by the CIETAC Hong Kong Arbitration Center, where the parties have agreed in writing that the arbitrator’s fees and expenses are to be based on an hourly rate, their agreement shall prevail. The Beijing Arbitration Commission also promoted such kind of fee-charging mechanism in their updated arbitration rules.

39. Can pre- and post-award interest be included on the principal claim and costs incurred?

Yes, but subject to reasonable extent.

40. What legal requirements are there in your country for the recognition and enforcement of an award? Is there a requirement that the award be reasoned,
i.e. substantiated and motivated?

The PRC Arbitration Law Article 54

The award shall specify the arbitration request, the facts in dispute, the reason for the award, the result of the award, the burden of the arbitration fee, and the date of the award. If the parties agree that they do not wish to specify the facts in dispute and the reasons for the ruling, such sections can be left out in the award.

Please also refer to the answer under Questions 42 and 44 and 47.

41. What is the estimated timeframe for the recognition and enforcement of an award? May a party bring a motion for the recognition and enforcement of an award on an ex parte basis?

After accepting the application made by an applicant regarding the recognition and enforcement of an arbitral award, the court will send out notice to the opponent party.

As for the timeframe, it may vary and depends on a series of factors, including but not limited to the type of the arbitral award (for example, if a foreign party is involved, more time will incur to complete the service), whether the opponent party raises an object, the workload of the court, etc. Normally, it will take several months, at least.

42. Does the arbitration law of your country provide a different standard of review for recognition and enforcement of a foreign award compared with a domestic award?

Under PRC law, arbitral awards can be classified into three types: domestic (involving domestic parties only, seated in mainland China), foreign-related (involving both domestic and foreign parties, seated in mainland China), and foreign arbitral awards (seated outside mainland China). The recognition and enforcement (including setting aside or refusing enforcement of an arbitral award) of different types of arbitral awards are governed by different legal provisions.

As for the challenge of foreign and foreign-related arbitral awards, PRC law follows the framework set forth in Article V of the New York Convention.

As for the challenge of domestic arbitral awards, in addition to making a challenge based on procedure defects, there may be other grounds. As per Article 237 of the Civil Procedural Law of the People’s Republic of China and Article 58 of the Arbitration Law of the People’s Republic Law of China, a party can apply for setting aside or not enforcing a domestic arbitral award on the ground that the other party has concealed evidence to the degree that fairness has been affected or arbitrators have accepted bribes, resorted to deception for personal gain or perverted the course of justice by the award.

43. Does the law impose limits on the available remedies? Are some remedies not enforceable by the local courts

No expressed codified law.

44. Can arbitration awards be appealed or challenged in local courts? What are the grounds and procedure?

Under PRC law, arbitral awards cannot be appealed but can be set aside or refused to enforce. A party should apply to the competent courts for such a procedure (in most circumstances is the intermediate people’s courts).

- Grounds:

For domestic arbitral awards, as per article 237 of the Civil Procedure Law of the People’s Republic of China, those grounds are:

1. No arbitrations agreement between the parties;
2. The issue does not fall under the scope of the arbitration agreement or the arbitration institution has no jurisdiction over the case;
3. The composition of the arbitral tribunal or the arbitration procedures is/are in violation of statutory procedures;
4. The evidence on which the arbitral award is based is forged;
5. The counterparty has concealed evidence which has a genuine impact on making a fair arbitral award; or
6. The arbitrators have perverted the course of justice, committed bribery, or cheated in the arbitration procedures.
7. Where the enforcement of the arbitral award violates public interest.

For foreign-related arbitral awards, as per article 274 of the Civil Procedure Law of the People’s Republic of China, those grounds are:
1. No arbitration agreement;
2. The respondent has not received a notice to appoint the arbitrator or has not been informed of the arbitration procedure, or the respondent is unable to present its case due to any reason not attributable to the respondent;
3. The composition of the arbitral tribunal or the arbitration procedure does not comply with the arbitration rules;
4. The issue does not fall under the scope of the arbitration agreement or the arbitration institution has no jurisdiction over the case;
5. Where the enforcement of the arbitral award violates public interest.

For foreign arbitral awards, in most circumstances, Article V of the New York Convention applies.

- Procedure:

As for the procedure, after a party applies for challenging an arbitral award, if the court of the first instance thinks that the challenge should be dismissed, the court can rule directly. However, if the court thinks that the challenge should be upheld, it shall follow an internal judicial review process and report to the higher courts level by level.

For domestic arbitral awards, in principle, the decision-making power of the relevant judicial review shall be exercised by the Higher People’s Court in the same jurisdiction, unless:

1. The domiciles of the parties located in different provinces; or
2. The ground for refusing enforcement or setting aside the arbitral awards is the violation of public interests.

If so, only the PRC Supreme People’s Court has the decision-making power to confirm the ruling on the refusal or setting-aside.

For foreign arbitral awards and foreign-related arbitral awards, only the PRC Supreme People’s Court has the decision-making power to confirm the ruling on the refusal or setting-aside.

46. To what extent might a state or state entity successfully raise a defence of state or sovereign immunity at the enforcement stage?

China has signed but has not ratified the United Nations Convention on Jurisdictional Immunities of States and Their Property. China has not given up absolute immunity and adopted restricted immunity.

47. In what instances can third parties or non-signatories be bound by an award? To what extent might a third party challenge the recognition of an award?

The Provisions of the Supreme People’s Court on Several Issues concerning the Handling of Cases of Arbitration Awards Enforcement by People’s Courts Article 9:

A party not involved in a case of arbitration awards enforcement that intends to apply to the competent people’s court for non-enforcement of the relevant arbitration award or arbitration mediation statement shall submit a written application and evidence substantiating its request, and satisfy the following conditions:

1. Where there is evidence that the parties to the arbitration case have maliciously applied for arbitration or engaged in fictitious arbitration, undermining the legitimate rights and interests of the party not involved in the case at hand;
2. Where enforcement of the subject matter for enforcement that involves the legitimate rights and interests claimed by the party not involved in the case at hand has not yet been concluded; and
3. Where the party not involved in the case at hand submits its application within 30 days after it comes to know or should have known that the people’s court has taken enforcement measures against the said subject matter.

48. Have there been any recent court decisions in your jurisdiction considering third party funding in connection with arbitration proceedings?

No reported cases but there is some promotion of third party funding by commercial entities.
49. Is emergency arbitrator relief available in your country? Are decisions made by emergency arbitrators readily enforceable?

No expressed codified law but some arbitration commissions have such rules (e.g. the CIETAC, the Beijing Arbitration Commission, the Shenzhen International Arbitration Court, etc.). It was a news that an interim measure granted by an emergency arbitrator in a case seated in mainland had been recognized and enforced in Hong Kong SAR.

It is worth noting that the Proposed Revisions aims to empower the emergency arbitrator to grant interim measures.

50. Are there arbitral laws or arbitration institutional rules in your country providing for simplified or expedited procedures for claims under a certain value? Are they often used?

No expressed codified law but most arbitration commissions have such rules and quite often used.

51. Is diversity in the choice of arbitrators and counsel (e.g. gender, age, origin) actively promoted in your country? If so, how?

No expressed codified law but there are some promotions in this regard in the arbitration community in China.

52. Have there been any recent court decisions in your country considering the setting aside of an award that has been enforced in another jurisdiction or vice versa?

One reported case (UNI-TOP ASIA INVESTMENT LIMITED v. SINOPEC INTERNATIONAL PETROLEUM EXPLORATION AND PRODUCTION CORPORATION) showing that an award which was set aside as the arbitrators had accepted some treatment from the parties. There is no specific expressed standard that applies to the burden of proving corruption in arbitration proceedings, therefore the general rules may apply, that is the burden of proof is borne by the claimant.

53. Have there been any recent court decisions in your country considering the issue of corruption? What standard do local courts apply for proving of corruption? Which party bears the burden of proving corruption?

There are some reported cases in which the arbitral award was set aside as the arbitrators had accepted some treatment from the parties. There is no specific expressed standard that applies to the burden of proof in arbitration proceedings, therefore the general rules may apply, that is the burden of proof is borne by the claimant.

54. Have there been any recent court decisions in your country considering the judgments of the Court of Justice of the European Union in Slovak Republic v Achmea BV (Case C-284/16), Republic of Moldova v Komstroy LLC (Case C-741/19) and Republiken Polen v PL Holdings Sarl (Case C-109/20) with respect to intra-European investor-state arbitration? Are there any pending decisions?

No.

55. Have there been any recent decisions in your country considering the General Court of the European Union’s decision Micula & Ors (Joined Cases T-624/15, T-694/15 and T-694.15), ECLI:EU:T:2019:423, dated 18 June 2019? Are there any pending decisions?

No.

56. What measures, if any, have arbitral institutions in your country taken in response to the COVID-19 pandemic?

Domestic arbitration institutions have made efforts to promote the concept of virtual hearing (or semi-virtual hearing), in which remote evidence may be provided. For example, the Beijing Arbitration Commission has issued its guidelines on conducting the virtual hearing.

As for virtual hearing platforms, different online platforms have been used, mainly Tencent Meeting and Zoom. Some institutions even have their own platforms, such as the Wisdom Hearing Platform adopted by the CIETAC.
In addition, some arbitration institutions also adopt a reduced fee schedule to support arbitration during the pandemic.

57. Have arbitral institutions in your country implemented reforms towards greater use of technology and a more cost-effective conduct of arbitrations? Have there been any recent developments regarding virtual hearings?

Similar to answer to Question 56.

58. In your country, does the insolvency of a party affect the enforceability of an arbitration agreement?

The Business Bankruptcy Law of the People’s Republic of China Article 20

Upon the acceptance of a bankruptcy application by a People’s Court, all commenced and pending civil proceedings or arbitration proceedings that are related to the debtor shall be suspended; such proceedings or arbitration shall continue after the administrator has taken over the administration of the assets.

59. Is your country a Contracting Party to the Energy Charter Treaty? If so, has it expressed any specific views as to the current negotiations on the modernization of the Treaty?

No.

60. Have there been any recent developments in your jurisdiction with regard to disputes on climate change and/or human rights?

Guided by the conviction promoted by President Xi that lucid waters and lush mountains are invaluable assets, China advocates harmonious coexistence between humans and nature and sticks to the path of green and sustainable development.

61. Has your country expressed any specific views concerning the work of the UNCITRAL Working Group III on the future of ISDS?

No expressed view has been made at the official level.

62. Has your country implemented a sanctions regime (either independently, or based on EU law) with regard to the ongoing crisis in Ukraine? Does it provide carve-outs under certain circumstances (i.e., providing legal services, sitting as an arbitrator, enforcement of an award)?

No, China has not implemented any sanctions regime with regard to the ongoing crisis in Ukraine.

63. Do the courts in your jurisdiction consider international economic sanctions as part of their international public policy? Have there been any recent decisions in your country considering the impact of sanctions on international arbitration proceedings?

According to Article 58 of the PRC Arbitration Law and Article 244 of the PRC Civil Procedure Law, where the People’s Court decides that should there has been a violation of the public interest, it shall order to set aside the award/refuse to acknowledge and enforce the award. However, there is no clear definition or scope of “public interest” under PRC law.

From a procedural perspective, there is rarely decisions of the PRC court involving the factor of sanction on international arbitration proceedings. In a case regarding the recognition and enforcement of foreign arbitral awards decided by the Shanghai Financial Court ((2021) Hu 74 Xie Wai Ren No. 1), the court considered the sanction imposed by Chinese government on a barrister chambers where the arbitrator practiced and held that such a sanction was imposed after issuance of the award, did not constitute a violation of article V of the New York Convention, and thus should not affect the recognition and enforcement of the arbitral award.

From a merits perspective, a sanction may constitute force majeure or changed circumstance under PRC law.

64. Have arbitral institutions in your country taken any specific measures to administer arbitration proceedings
involving sanctioned individuals/entities? sanctions?
Do their rules address the issue of No.

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