

INTEGRATION INTO ARBITRAL LEGAL ORDER:
THE ACHIEVEMENTS AND PROSPECTS OF THE
2025 PRC ARBITRATION LAW

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INTEGRATION INTO ARBITRAL LEGAL ORDER THE ACHIEVEMENTS AND PROSPECTS OF THE 2025 PRC ARBITRATION LAW

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I. INTRODUCTION

International arbitration has evolved from a fragmented set of national practices into a cohesive transnational system, epitomized by the concept of the Arbitral Legal Order coined by Prof. Emmanuel Gaillard.¹ This framework characterized by party autonomy, limited judicial intervention, and cross-border enforceability of awards, has gained global recognition as a “semi-autonomous” legal community independent of, yet complementary to, national legal systems.² For China, a major participant in international trade and investment, aligning its arbitration regime with this order is critical to enhancing the credibility of its dispute resolution mechanisms and attracting global parties.

Enacted in 1994, the Chinese Arbitration Law marked the meaning of *Zhongcai* (仲裁) transited from administrative adjudication to modern commercial arbitration. However, inherent tensions between its domestic administrative traditions and the transnational, contract-based logic of the Arbitral Legal Order persisted, hindering its international integration. The *2025 PRC Arbitration Law*—the most significant reform in the past 30 years—seeks to address these gaps by aligning with the Arbitral Legal Order, such as the New York Convention and UNCITRAL Model Law.

This article explores China’s journey toward integrating into the Arbitral Legal Order through the new Arbitration Law. It begins with a theoretical exposition of the Arbitral Legal Order and its counterpart, the “Global Free-standing Body of Substantive Arbitration Law”.³ It then examines the historical

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¹ EMMANUEL GAILLARD, *LEGAL THEORY OF INTERNATIONAL ARBITRATION* 20–46 (Martinus Nijhoff Publishers, 2010).

² Faadhil Adams, *The Semi-Autonomy of the Arbitral Legal Order*, 16 *ASIAN INT’L ARB. J.* 139, 140 (2020).

³ Julian D.M. Lew, *Is There a “Global Free-standing Body of Substantive Arbitration Law”?*, in *INTERNATIONAL ARBITRATION: THE COMING OF A NEW AGE?* 53–56 (Albert

and ideological divides between China's domestic arbitration practice and global norms, followed by an analysis of contentious issues in the revision process. The core of the article dissects the key reforms of the Chinese Arbitration Law of 2025 and their alignment with the Arbitral Legal Order, concluding with reflections on remaining challenges and prospects.

II. THE ARBITRAL LEGAL ORDER AND ITS TRANSNATIONAL ESSENCE

The Arbitral Legal Order emerged as a theoretical framework to describe the transnational system governing international arbitration, first articulated by Prof. Emmanuel Gaillard and widely adopted by scholars and practitioners.⁴ It is defined as a semi-autonomous community that operates independently of any single national legal system but remains anchored in state support—particularly for the enforcement of awards.⁵ Three pillars underpin this order:

(1) Party Autonomy. The foundational principle granting parties the freedom to select arbitration rules, procedures, institutions, and arbitrators—an autonomy far broader than that available in litigation, distinguishing arbitration from court-based dispute resolution.⁶ (2) The 1958 New York Convention. The linchpin of the order, unifying global standards for enforcing foreign arbitral awards. It limits grounds for reviewing awards and rejects a hierarchical relationship between national legal systems, allowing states to enforce awards even if set aside at the seat, provided they meet the Convention's criteria.⁷ (3) Symbiosis with States. While the Arbitral Legal Order is transnational, it relies on states to provide enforcement mechanisms and legal infrastructure. In return, states benefit from arbitration's flexibility and efficiency in resolving

Jan Van Den Berg ed., 2013).

⁴ See GAILLARD, *supra* note 1. In that book, Prof. Gaillard summarized the three schools of thought regarding international arbitration that have evolved to reflect different stages on the source of arbitration's legitimacy and legal force: (1) The Monocultural Approach sees arbitration as a component of a single national legal order, with the arbitration seat providing the exclusive legal basis for the award's validity. (2) The Westphalian Approach recognizes multiple legal systems as equally relevant, considering the laws of both the arbitration seat and enforcement jurisdictions as having equal say in determining the award's validity; (3) the Arbitral Legal Order views arbitration as an autonomous, transnational legal system, independent of any single national legal order and rooted in international consensus and conventions like the 1958 New York Convention.

⁵ See Adams, *supra* note 2, at 145.

⁶ *Id.* at 141.

⁷ *Id.* at 142.

cross-border disputes.⁸

Prof. Julian Lew proposed a parallel concept—the Global Free-standing Body of Substantive Arbitration Law—referring to a set of transnational rules independent of national laws but influenced by them.⁹ This body encompasses: (1) Procedural rules (e.g., form and validity of arbitration agreements); (2) Substantive norms (e.g., arbitrator impartiality, due process, finality of awards); (3) Rules for applying public international law in investor-state arbitration.¹⁰ Its sources are diverse: international arbitral practice and awards, institutional rules (e.g., ICC, LCIA), guidelines from bodies like UNCITRAL and UNIDROIT, international treaties, and national court decisions.¹¹ Over the late 20th century, these sources evolved from national silos to a transnational framework tailored to the needs of the global business community.¹²

Despite differing nomenclature, the Arbitral Legal Order and the Global Free-standing Body of Substantive Arbitration Law are complementary legal fictions—assumptions designed to justify the autonomy of international arbitration.¹³ They reflect a shared goal: to establish a coherent system of international arbitral justice independent of parochial national interests.

III. DIVERGENCES: CHINA'S EXISTING ARBITRATION REGIME AND THE ARBITRAL LEGAL ORDER

China's arbitration practice, shaped by unique historical and ideological factors, has long diverged from the Arbitral Legal Order. These gaps are rooted in differing historical origins and institutional mindsets.

A. CHINA'S PATH: FROM ADMINISTRATIVE ADJUDICATION TO MODERN ARBITRATION

China's arbitration development followed a distinct trajectory. (1) 1949–1994: Only CIETAC and CMAC handled foreign-related arbitration under state authorization,¹⁴ The 1983

⁸ *Id.* at 146–148.

⁹ *See* Lew, *supra* note 3, at 50–55.

¹⁰ *Id.*

¹¹ *Id.* at 54–56.

¹² *Id.* at 60.

¹³ *See* Eduardo Silva Romero, *Legal Fictions in the Language of International Arbitration*, in *ARBITRATION BEYOND BORDERS: ESSAYS IN MEMORY OF GUILLERMO AGUILAR ÁLVAREZ* 162 (Nigel Blackaby & W. Michael Reisman eds., 2023).

¹⁴ Fan Kun, *ARBITRATION IN CHINA: A LEGAL AND CULTURAL ANALYSIS* 1–15 (2013).

Regulations on Economic Contract Arbitration of PRC introduced a *Zhongcai* (仲裁) system that was, in essence, administrative adjudication—mandatory, non-final, and run by industrial and commercial authorities.¹⁵ (2) 1994 Onward: The 1994 Arbitration Law unified fragmented rules, separated arbitration commissions from administrative organs, and embraced party autonomy.¹⁶ It eliminated the divide between “administrative adjudication” and “foreign-related arbitration”, marking China’s entry into modern arbitration.

B. IDEOLOGICAL DIVIDES: BOTTOM-UP VS. TOP-DOWN GOVERNANCE

The core divergence between China’s practice and the Arbitral Legal Order lies in their institutional logic. In the global context, arbitration is driven by party autonomy: parties select private adjudicators, and courts intervene only to ensure procedural justice.¹⁷ Even in institutional arbitration, relationships are contractual: between parties and the institution, parties and arbitrators, and the institution and arbitrators. International institutions adopt either “light-touch administration” (e.g., LCIA, HKIAC—minimal intervention, respecting tribunal autonomy) or “heavy-touch administration” (e.g., ICC—reviewing awards for consistency).¹⁸

However, China’s regime remains state-centric. The 1994 *PRC Arbitration Law* permits only institutional arbitration, with domestic institutions exercising “full administration”—controlling all procedural stages, prioritizing substantive fairness over efficiency, and adopting “judicialized” mandatory rules.¹⁹ Arbitration is framed as a state-provided alternative dispute resolution tool, reflecting lingering administrative inertia.²⁰ Such a domestic ideology has created more disharmony in specific rules.

C. CONTROVERSIES DURING THE REVISION: RECONCILING

¹⁵ *Id.*

¹⁶ Wen Zhengbang (文正邦), <*Zhongcai Fa*> *Yu Shichang Jingji Caipan Zhidu De Gaige* (《仲裁法》与市场经济裁判制度的改革) [*The Arbitration Law and the Reform of Market Economic Adjudication System*], 6 *ZHONGGUO FAXUE* (中国法学) [CHINA LEGAL SCIENCE] 55, 55–61 (1995).

¹⁷ Fan Kun, *supra* note 14, at 189–222.

¹⁸ See, e.g., *Light Touch Administration*, LEXISNEXIS UK, <https://www.lexisnexis.co.uk/legal/guidance/light-touch-administration> (last visited Dec. 14, 2025).

¹⁹ Fan Kun, *supra* note 14, at 200–240.

²⁰ See, e.g., Sun Wei (孙巍), *Zhongguo Zhongcai Lifa De Eryuan Moshi Tanta* (中国仲裁立法的二元模式探讨) [*On the Dual Model of China’s Arbitration Legislation*], 3 *ZHONGGUO FALÜ PINGLUN* (中国法律评论) [CHINA LAW REVIEW] 193, 194–196 (2022).

DOMESTIC TRADITIONS WITH GLOBAL NORMS

The tensions between China's administrative legacy and the Arbitral Legal Order's private-based logic are mainly reflected in three main topics, and the Chinese academia and legislators had strong disagreements over them.

1. Ad hoc Arbitration

Ad hoc arbitration—party-appointed tribunals without institutional oversight—remains the most traditional form of commercial arbitration, especially in maritime disputes,²¹ but not adopted in the past decades until the special rules applied to the Free Trade Zones.²² Such an incompatibility caused endless confusion in international arbitration with the arbitral seat in China.²³ In the law revision, two different views have emerged during the past years in discussing the future Revised Arbitration Law. The first one supports full liberalization. Some scholars proposed eliminating the requirement for a “selected arbitration commission” in agreements, as in the 2021 Draft Arbitration Law for Advice.²⁴ The second view suggests a limited opening. Several scholars and practitioners argued that *ad hoc* arbitration should be restricted to foreign-related disputes or Free Trade Zones, since there is a lack of qualified arbitrators and institutional support in domestic cases.²⁵

²¹ London Maritime Arb. Ass'n, *Statistics of Appointments & Awards*, <https://lmaa.london/statistics-of-appointments-awards/> (last visited Dec. 15, 2025).

²² See, e.g., Zuigao Renmin Fayuan Guanyu Wei Ziyou Maoyi Shiyuan Qu Jianshe Tigong Sifa Baozhang De Yijian, Fafa [2016] Sanshisi Hao (最高人民法院关于为自由贸易试验区建设提供司法保障的意见·法发【2016】34号) [Opinions of the Supreme People's Court on Providing Judicial Guarantee for the Building of Pilot Free Trade Zones, Court Issuance No. 34 [2016]] (promulgated by the Sup. People's Ct., Dec. 30, 2016, effective Dec. 30, 2016) Sup. People's Ct. Gaz., Dec. 30, 2016, <http://gongbao.court.gov.cn/Details/f01ea06c5d69b8c6f1fbd3689bec6a.html>; (China).

²³ See, e.g., Zhang Tietie, *Enforceability of Ad Hoc Arbitration Agreements in China: China's Incomplete Ad Hoc Arbitration System*, 46 CORNELL INT'L L.J. 361 (2013).

²⁴ See Du Huanfang (杜焕芳), *Zhongcai Fa Yingyou De Baorongxing Kaifangxing Rongtongxing* (仲裁法应有的包容性开放性融通性) [*On the Inclusiveness, Openness and Compatibility Required for Arbitration Law*], 1 ZHENGFA LUNTAN (政法论坛) [TRIBUNE OF POLITICAL SCIENCE AND LAW] 71, 78 (2025).

²⁵ See Sun Wei, *supra* note 20, at 201; Liu Xiaohong (刘晓红) & Feng Shuo (冯硕), *Dabianju Beijing Xia De Guoji Shangshi Zhongcai: Shijie Chaoliu Yu Zhongguo Yinying* (大变局背景下的国际商事仲裁：世界潮流与中国因应) [*International Commercial Arbitration in the Context of Great Changes: Global Trends and China's Responses*], 12 ZHONGGUO SHEHUI KEXUE (中国社会科学) [SOCIAL SCIENCES IN CHINA] 63, 77 (2024).

2. The Principle of Competence-Competence

The principle of competence-competence that allows tribunals to rule on their own jurisdiction, is a global norm enshrined in the UNCITRAL Model Law and national laws (e.g., the UK, France, Switzerland).²⁶ The negative effect of which, that a national court must decline jurisdiction and refer the parties to arbitration if the dispute is covered by a valid arbitration agreement between them, is also a requirement stated in Article II (3) of the New York Convention and followed by 172 contracting states.²⁷ However, Article 20 (1) of the 1994 *PRC Arbitration Law* granted courts priority in reviewing arbitration agreement validity and allowed only arbitration commissions to rule on jurisdiction matters,²⁸ conflicting with the global practice and Article II (3) of the New York Convention.

During the revision, different versions of the draft law reflect the difference between the Arbitral Legal Order and domestic intention. In Article 28 of the 2021 *Arbitration Law (Revised) (Draft for Comment)*, MOJ added the doctrine of Competence-Competence for the purpose of “in accordance with the common practices of international commercial arbitration”,²⁹ but Article 28 of the 2024 *Arbitration Law (draft revision)* retains the same text as Article 20(1) of the 1994 *PRC Arbitration Law*, and frustrated both the Chinese academic community and practitioners.³⁰

²⁶ See Emmanuel Gaillard & Yas Banifatem, *Negative Effect of Competence-Competence: The Rule of Priority in Favour of the Arbitrators, in ENFORCEMENT OF ARBITRATION AGREEMENTS AND INTERNATIONAL ARBITRAL AWARDS: THE NEW YORK CONVENTION PRACTICE 259–260* (Emmanuel Gaillard & Domenico Di Pietro eds., 2008).

²⁷ Article II (3) of the New York Convention provides that: “The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.”

²⁸ Article 20 (1) of the 1994 PRC Arbitration Law provides that: “If a party challenges the validity of the arbitration agreement, he may request the arbitration commission to make a decision or apply 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.”

²⁹ *Guanyu <Zhonghua Renmin Gonghe Guo Zhongcai Fa (Xiuding) (Zhengqiu Yiji an Gao)> De Shuoming* (关于《中华人民共和国仲裁法(修订)(征求意见稿)》的说明) [*Explanation on the Arbitration Law of the People’s Republic of China (Revised) (Draft for Comment)*], MINISTRY OF JUSTICE OF THE PEOPLE’S REPUBLIC OF CHINA (July 30, 2021), <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fzqyj.chinalaw.gov.cn%2Fchinalaw%2Fupload%2FcontentFile%2F1%2F4518%2F9931.doc&wdOrigin=BROWSELINK>.

³⁰ See, e.g., Zhong Mariana & Dang Hongwei, *Dissecting the 2024 Draft Amendment to the PRC Arbitration Law: A Stride Forward or a Step Back?*, KLUWER ARBITRATION BLOG (Dec. 3, 2024), <https://arbitrationblog.kluwerarbitration.com/2024/12/03/dissecting-the-2024-draft-amendment-to-the-prc-arbitration-law-a-stride-forward-or-a-step-back/> (last visited Sep. 28, 2025).

3. Interim Measures

The power of arbitral tribunals to issue interim measures (e.g., asset preservation, injunctions) is seen as another pillar of the Arbitral Legal Order and is provided by different laws.³¹ China's 1994 *PRC Arbitration Law* reserves this power for courts, and the academia had a strong debate over it. Several scholars argue that China should immediately grant the authority of tribunals to issue interim measures since it is the inherent power of arbitral tribunals,³² this view was reflected in Article 43 of the 2021 *Arbitration Law (Revised) (Draft for Comment)*. The different view suggests that courts should retain control over the interim measures in the short-term future, with institutions acting only under Supreme People's Court authorization,³³ and this view was accepted in the 2024 *Arbitration Law (draft revision)*.

From the three specific controversial issues arising during the revision of China's Arbitration Law, it is evident that there exist significant divergences between China's unique arbitration system and the Arbitral Legal Order. Such divergences have profoundly influenced different scholars and theories. Behind these viewpoints lie not only differences in arbitration law philosophies but also disparities in understanding China's current development status of arbitration. However, the 2025 *PRC Arbitration Law* has achieved inclusiveness and balance. While aligning its core systems with international standards, it has taken into account the unique understanding of China's special circumstances and retained some rules in the 1994 *PRC Arbitration Law*, and thus produced a successful arbitration law.

³¹ See, e.g., UNCITRAL Model Law on International Commercial Arbitration art. 17; Arbitration Act 2025, §§ 38, 44 (Eng.); Swiss Private International Law Act art. 183 (Switz.).

³² Shen Wei (沈伟) & Lu Xinyue (芦心玥), <Zhongcai Fa> Ruhe Gengjia Guojihua—Jiyu <Zhongcai Fa (Xiuding) (Zhengqiu Yijian Gao)> Zhuyao Tiaokuan De Kaocha (《仲裁法》如何更加国际化——基于《仲裁法(修订)(征求意见稿)》主要条款的考察) [How to Make Arbitration Law More International—Investigating the Key Provisions in the Revised Arbitration Law], 3 HUNAN DAXUE XUEBAO (SHEHUI KEXUE BAN) (湖南大学学报(社会科学版)) [JOURNAL OF HUNAN UNIVERSITY(SOCIAL SCIENCES)] 125, 128 (2024); Jiang Lili (姜丽丽), <Zhongcai Fa> Xiuding Zhongda Zhengyi Wenti Jiqi Lilun Suyuan (《仲裁法》修订重大争议问题及其理论溯源) [Major Controversies in the Revision of the Arbitration Law and Their Theoretical Origins], 3 ZHONGGUO FALÜ PINGLUN (中国法律评论) [CHINA LAW REVIEW] 165, 175 (2024).

³³ See Liu & Feng, *supra* note 25, at 77.

IV. THE MAJOR ACHIEVEMENTS IN THE 2025 PRC ARBITRATION LAW

On 12 September 2025, the Standing Committee of the National People's Congress adopted the newly revised 2025 *PRC Arbitration Law*, which was later promulgated by the PRC President and takes effect on 1 March 2026.

The purpose of the 1994 *PRC Arbitration Law* was to ensure that “arbitration”—a practice imported from the West—took root and developed in China under the guidance and supervision of courts. To this end, it prioritized procedural efficiency/fairness while placing arbitral efficacy in a secondary position.³⁴ The revision goal of the 2025 *PRC Arbitration Law* is to develop a high-quality arbitration law that supports China's strategy of high-level opening-up, advancing from a “rudimentary” to a “refined” framework, and aligning with global standards. It conforms to the global trend of courts supporting and supervising arbitration, has placed the value of arbitration efficiency in a priority position, and ensured integration with the Arbitral Legal Order.³⁵ These reforms prioritize alignment with international rules, enhancement of party autonomy, and strengthening of institutional support for cross-border arbitration.

A. THE OVERVIEW OF THE MAJOR CHANGES

Specifically, in terms of arbitral efficacy and judicial support for arbitration: (1) Article 39 stipulates that parties to an arbitration agreement may apply to a court for property preservation and preliminary injunctions, pioneering the establishment of a preliminary injunction system; (2) Article 58 provides for a system where parties to an arbitration agreement may apply to a court for evidence preservation; (3) Article 72 shortens the time limit for parties to apply for the setting aside of an arbitral award from the previous 6 months to 3 months. These rules are fully aligned with internationally prevailing legal rules and embody the principle of judicial support and supervision for arbitration.

In terms of aligning with international arbitration practice: (1) Article 81 introduces the arbitral seat for the first time; (2)

³⁴ The arbitral efficacy and procedural efficiency/fairness are two conflicting legal values to be balanced in arbitration lawmaking. See John J. Barceló, *Kompetenz-Kompetenz and Its Negative Effect—A Comparative View*, CORNELL L. SCH. LEGAL STUD. RES. PAPER SERIES, 32–34 (2017).

³⁵ See Luo Fuzhong (罗富中), *Fayuan Guanxia She Zhongcai Xieyi Anjian Zhi Guifan Gexin Yu Lilun Shenhua* (法院管辖涉仲裁协议案件之规范革新与理论深化) [*Normative Renovation and Theoretical Refinement of Courts' Jurisdiction over Arbitration Cases*], 10 FAXUE (法学) [LAW SCIENCE] 177, 188–190 (2025).

Article 82 introduces the ad hoc arbitration in Free Trade Zones in law; (3) Article 83 limits the grounds for setting aside foreign-related arbitral awards to procedural matters, which is consistent with Article 34 of the UNCITRAL Model Law on International Commercial Arbitration and many other foreign laws.

Undoubtedly, the 2025 PRC Arbitration Law is a successful piece of legislation. Compared with the three draft versions during the revision process, it has achieved the modernization, commercialization and internationalization of China's arbitration system beyond the expectations of both academia and the practitioners community.

B. THE INTEGRATION INTO THE ARBITRAL LEGAL ORDER

1. Pre-Arbitral Preservation

Article 39 of the 2025 *PRC Arbitration Law* introduces preliminary injunctions, allowing parties to apply to the court for "ordering a specific act or prohibiting a specific act"; clarifies that in emergency situations, parties may file pre-arbitration preservation applications directly with the court (without going through the arbitration institution), and the court shall handle such applications in a timely manner as required by law. Compared to Articles 28 and 46 of the 1994 *PRC Arbitration Law*, where preliminary injunctions (injunctive relief) were absent and parties were prohibited from filing applications directly, the new rules provide better protection for addressing the needs of disputes involving ongoing infringements, especially in emergency situations.

In the context of the Arbitral Legal Order, the foreign legislation intends to use interim measures issued by arbitral tribunals or courts to serve a similar purpose.³⁶ Though the 2025 *PRC Arbitration Law* has not yet accepted an arbitral tribunal to issue the relief, acknowledging courts to provide such remedies can also be seen as an improvement towards international practice.³⁷

³⁶ Article 17 of the UNCITRAL Model Law provides that arbitral tribunals take the lead in deciding preservation measures and courts assist in enforcement. Common law systems like the UK and US prioritize tribunals, with courts intervening only when tribunals cannot; civil law systems such as France and Switzerland emphasize division of labor between tribunals and courts. See ACERIS LAW, LLC., *Enforcement of Interim Measures in International Arbitration*, <https://www.acerislaw.com/enforcement-of-interim-measures-in-international-arbitration/> (last visited Oct. 3, 2025).

³⁷ For instance, Dr. CHEN Zhi believes that China's not allowing an arbitral tribunal to issue the interim measures shall not be seen as a violation of international practice, but a deliberate deviation. He puts forward key views on China's arbitration interim relief and responds to counterarguments: (1) Chinese courts adopt a relatively low threshold for asset preservation, conducting only formal reviews (e.g., checking the arbitration institution's letter or insurance company's guarantee letter) instead of substantive reviews (on irreparable harm, proportionality, urgency) like

2. Dual track of Setting Aside the Arbitral Award System

In the 1994 *PRC Arbitration Law*, the review of award setting-aside included substantive grounds (e.g., forged evidence or concealment of material evidence), leading to excessive judicial intervention in arbitral autonomy,³⁸ which contradicts the internationally accepted principle of procedural supervision established by Article V of the New York Convention and Article 34 of the UNCITRAL Model Law. Besides, the time limit for parties to apply for setting aside an arbitral award was 6 months, leaving the validity of awards uncertain for an extended period and undermining the stability of commercial transactions.³⁹ Such provisions are also criticized by both academia and practitioners.

In response to the inharmonious arrangement, Article 83 of the 2025 *PRC Arbitration Law* specifies that the grounds for setting aside foreign-related arbitral awards are limited to procedural matters, removing substantive review provisions to align with international rules, and limiting the substantive review only to domestic awards, thus setting the dual-track of setting aside awards. Meanwhile, Article 72 of the 2025 *PRC Arbitration Law* shortens the time limit for applying for the setting aside of an arbitral award from 6 months to 3 months, urging parties to exercise their remedy rights promptly and upholding the stability of awards, also aligning with the requirement of the UNCITRAL Model Law.

3. Legitimate Acknowledgement on the Arbitral Seat and Ad Hoc Arbitration

The 1994 *PRC Arbitration Law* had no concept of an arbitration seat and caused confusion for courts in determining the nationality of foreign-related awards, affecting cross-border recognition and enforcement.⁴⁰ The Supreme People's Court

foreign arbitral tribunals, which ensures the efficiency and enforceability of interim relief to meet parties' needs. (2) The author opposes the two-tier system for interim relief, citing the UK High Court's *Gerald Metals* case (which holds courts grant relief only when tribunals lack authority) and arguing a one-tier system fits China better, as courts excel in efficiency and enforceability for asset preservation. (3) Refuting commentators who claim "tribunals need power for other preservations or overseas recognition," the author notes most cases only involve asset preservation (evidence/conduct preservation is rare) and overseas enforcement depends on the enforcing country's law, referencing Article 17H(1) of the UNCITRAL Model Law. See Chen Zhi, *2025 New Chinese Arbitration Law: Improvements Made and To Be Further Made*, CONFLICTOFLAWS.NET, <https://conflictolaws.net/2025/2025-new-chinese-arbitration-law-improvements-made-and-to-be-further-made/> (last visited Oct. 3, 2025).

³⁸ Article 58 of the 1994 PRC Arbitration Law.

³⁹ Article 59 of the 1994 PRC Arbitration Law.

⁴⁰ "[T]he two most salient issues are (1) foreign-administered disputes seated in China

intentionally released a judicial interpretation in 2006 to fill this gap on purpose,⁴¹ but the rule has not been established in the form of congressional legislation until Article 81 of the 2025 *PRC Arbitration Law*, which clarifies that the arbitration seat serves as the basis for determining the applicable law for arbitration proceedings and the court with jurisdiction, resolving the long-standing issue of identifying the nationality of foreign-related awards.

The rejection of *ad hoc* arbitration is another major feature of the 1994 *PRC Arbitration Law*. Article 16 of which required arbitration agreements to specify an arbitration commission, effectively imposing a blanket ban on *ad hoc* arbitration, which was inconsistent with international practices. Article 82 of the 2025 *PRC Arbitration Law* confirms a special arbitration system, allowing parties to opt for *ad hoc* arbitration in foreign-related maritime disputes and foreign-related disputes between enterprises in Free Trade Zones (FTZs) or other state-designated regions; specifies that the arbitration seat within the PRC must be agreed in writing, and the arbitral tribunal shall file for record with the arbitration association within 3 working days after its formation, balancing liberalization and risk prevention.

4. Acknowledgement of Competence-Competence

Article 31(1) of the 2025 *PRC Arbitration Law* represents the first acknowledgment of the tribunal's competence to rule on its own jurisdiction. The Ministry of Justice clearly stated in its report to the Standing Committee of the National People's Congress that the newly added phrase "request the arbitration institution or the arbitral tribunal to make a decision" confirms the arbitral tribunal's power in determining jurisdiction.⁴² This acknowledgment thereby aligns with the basic theories of international arbitration, foreign legislative examples, and international arbitration practices.

However, Article 31 of the 2025 *PRC Arbitration Law* still has not fully resolved the issues in dealing with parallel proceedings. The relationships between Article 31 and Article 37

and (2) the lack of an applicable kompetenz-kompetenz doctrine." See ACERIS LAW, LLC., *Arbitration in China: Potential Issues*, <https://www.acerislaw.com/arbitration-in-china-potential-issues/> (last visited Oct. 9, 2025).

⁴¹ See Article 16 of the Interpretation of the Supreme People's Court concerning Some Issues on Application of the Arbitration Law of the People's Republic of China (promulgated by the Sup. People's Ct., Dec. 16, 2008, effective Dec. 31, 2008), CLI.3.219027(EN) (Lawinfochina).

⁴² See *Guanyu <Zhonghua Renmin Gonghe Guo Zhongcai Fa (Xiuding Caoan)> De Shuoming* (关于《中华人民共和国仲裁法(修订草案)》的说明) [*Explanation on the Draft Revision of the Arbitration Law of the People's Republic of China*], THE NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA (Sep. 12 2025), http://www.npc.gov.cn/npc/c2/c30834/202509/t20250912_447719.html.

(Article 31 of the 1994 *PRC Arbitration Law*)⁴³ remain unclear, and the latter one represents the obligation from Article II (3) of the New York Convention. The standards and scope of review applied by arbitral tribunals and courts to cases involving different places of arbitration still await further elaboration in the supporting updates of judicial interpretations, as well as accurate understanding and application by courts and arbitral tribunals.⁴⁴

C. CHALLENGES AND PROSPECTS FOR FULL INTEGRATION

While the 2025 PRC Arbitration Law has made notable progress, it still retains provisions reflecting administrative inertia, creating tensions with the international arbitration principle of party autonomy. Specifically, Article 31 provides that courts still maintain the power in reviewing arbitration agreement validity when parties separately raise the dispute before the arbitral tribunal and the court (restricting competence-competence), retaining courts the exclusive authority over interim relief (limiting tribunal autonomy). These gaps stem from China's traditional emphasis on state control over dispute resolution, clashing with the global trend of reducing judicial intervention and prioritizing party autonomy.

To deepen integration with the global Arbitral Legal Order, future reforms should focus on four key areas: gradually expanding domestic *ad hoc* arbitration as qualified arbitrators grow in number; amending laws to fully recognize tribunals' primary jurisdiction over their competence with courts only *prima facie* reviewing procedural irregularities; empowering tribunals in foreign-related cases to issue interim measures (while courts retain enforcement authority).

V. CONCLUSION

Integration into the global Arbitral Legal Order is not a mere legal technical adjustment, but a strategic imperative aligned with China's broader development goals: it reduces legal risks for foreign investors by providing a predictable, internationally compatible arbitration framework; empowers cities like Beijing, Shanghai, and Shenzhen to compete with Singapore and Hong Kong as global dispute resolution hubs through globally

⁴³ See Article 37 of 2025 PRC Arbitration Law. It provides that: "where the parties have concluded an arbitration agreement, one party institutes an action in a people's court without declaring the existence of the arbitration agreement, and after the people's court accepts the case, the other party submits the arbitration agreement prior to the first hearing, the people's court shall dismiss the case unless the arbitration agreement is void or as otherwise provided by a law. If, prior to the first hearing, the other party has not raised an objection to the people's court's acceptance of the case, such other party shall be deemed to have renounced the arbitration agreement, and the people's court shall continue to try the case."

⁴⁴ See Luo, *supra* note 35, at 188–191.

recognized arbitration services; and strengthens China's voice in global governance by deepening its participation in international arbitration rule-making.

The 2025 *PRC Arbitration Law* marks a pivotal step in this integration journey. By formally establishing the arbitration seat system, allowing *ad hoc* arbitration in limited scenarios, and enhancing cross-border arbitration cooperation, the new Law addresses long-standing discrepancies between China's arbitration practice and global norms. Yet, it still falls short of full alignment: unresolved issues—such as the restricted powers of arbitral tribunals—continue to impede its integration with international standards, a necessity in the current arbitration landscape. Moving forward, the key lies in balancing China's domestic administrative traditions with the core principles of the global Arbitral Legal Order, particularly party autonomy and transnational justice. As China deepens its engagement with the global economy, further reforms to its arbitration regime will not only boost its legal credibility but also solidify its role as a key participant in the transnational dispute resolution system.

In essence, the 2025 *PRC Arbitration Law* is both a milestone that acknowledges China's commitment to global arbitration norms and a starting point—laying the foundation for deeper, more systematic integration into the global Arbitral Legal Order in the years to come.