Economics, Law and Policy
ISSN 2576-2060 (Print) ISSN 2576-2052 (Online)
Vol. 8, No. 2, 2025
www.scholink.org/ojs/index.php/elp

Original Paper

Research on the Current Situation and Countermeasures of International Commercial Arbitration in China

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Received: September 5, 2025 Accepted: September 17, 2025 Online Published: September 19, 2025

doi:10.22158/elp.v8n2p162 URL: http://dx.doi.org/10.22158/elp.v8n2p162

Abstract

This article aims to systematically analyze the current development status, existing problems and countermeasures of international commercial arbitration in China. China's international commercial arbitration takes the Arbitration Law of the People's Republic of China as its core legal framework, relies on international treaties such as the New York Convention to achieve cross-border enforcement, and gradually forms an international arbitration institution system. However, it still faces challenges such as the absence of a provisional arbitration system, insufficient internationalization of institutions, lagging rules for the application of digital technologies, a shortage of high-end foreign-related talents, and insufficient capacity to deal with new types of disputes. This article proposes that systematic measures should be taken, including establishing a dual-track legislative model of interim arbitration and institutional arbitration in parallel, expanding the openness of the arbitration system, optimizing the structure of arbitrators and multilingual service capabilities, clarifying the procedural boundaries and ethical rules of artificial intelligence applications, strengthening foreign-related arbitration and the training of legal talents in countries along the "Belt and Road", and exploring special arbitration rules for new types of disputes such as ESG To comprehensively enhance the international competitiveness and credibility of China's international commercial arbitration, and provide support for building a new highland of arbitration in the Asia-Pacific region and serving high-level opening up to the outside world.

Keywords

International commercial arbitration, Provisional arbitration, arbitration institutions, artificial intelligence

1. Analysis of the Current Situation of International Arbitration in China

1.1 Legislative Basis of International Commercial Arbitration in China

China's international commercial arbitration has developed relatively early. Domestically, the "Arbitration Law of the People's Republic of China" serves as the core of the law. Chapter 7 of this law specifically regulates foreign-related arbitration. It will be further revised in 2024, clarifying interim arbitration and improving the standards for determining the validity of arbitration agreements, among other contents. The corresponding Chapter 26 of the Civil Procedure Law of the People's Republic of China also makes specific provisions. As supplementary judicial interpretations, the "Interpretation on Several Issues Concerning the Application of the Arbitration Law of the People's Republic of China" and the "Provisions on Several Issues Concerning the Judicial Review of Arbitration" unify the reporting system for judicial review of arbitration in the mainland and foreign-related arbitration. The relevant jurisdictional courts except for maritime and commercial cases have been clearly defined, and the principle of "conducive to the validity of the agreement" shall be followed when the two parties have not agreed on the applicable law of the arbitration clause. China's accession to the New York Convention in 1987 constitutes the core basis for cross-border enforcement.

1.2 Current Situation of International Commercial Arbitration Institutions in China

The major international commercial arbitration institutions in China include the China International Economic and Trade Arbitration Commission (CIETAC), the Beijing Arbitration Commission (BAC), the Shanghai International Economic and Trade Arbitration Commission (SHIAC), and the Shenzhen Court of International Arbitration (SCIA). All of them have ranked among the world's most active arbitration institutions. These institutions have revised arbitration rules, introduced emergency arbitrators, consolidated arbitration, third-party funding and other systems, and expanded the proportion of foreign arbitrators on the list. In some institutions, the proportion of foreign arbitrators exceeds 30%, such as SCIA, which pays more attention to the internationalization of the arbitrator structure. The newly established international arbitration courts in Hainan, Chengdu-Chongqing and other places, relying on the policy advantages of the free trade zones, have been actively exploring innovations in cross-border arbitration rules. For instance, the Hainan International Arbitration Court allows the parties to agree that overseas arbitration institutions will manage domestic arbitration procedures. All major institutions have established relatively complete systems for the list of arbitrators and are gradually transitioning to an "open list" system, allowing parties to appoint arbitrators outside the list. In terms of the adjudication mechanism, Chinese arbitration institutions adhere to the "final award" principle, meaning that once an arbitration award is made, it has final effect and does not require a court review. Meanwhile, the institution has established certain internal mechanisms for controlling the quality of arbitration awards, such as a review system for draft awards, to ensure the fairness and legal consistency of the arbitration results. Some institutions have also established dedicated research departments to provide procedural or substantive guidance on major and complex cases, thereby enhancing the overall quality of adjudication. However, from the perspective of the

external environment, the establishment of their own office areas in China by well-known international institutions such as the Court of Arbitration of the International Chamber of Commerce and the Singapore International Arbitration Centre, as well as the entry of many high-level international commercial arbitration institutions, will inevitably have an impact on China's international commercial arbitration institutions and create intense competition with them. but competition can promote the development of international commercial arbitration in China (Guo, L. L., 2024).

1.3 Arbitration Institutions Are Accelerating the Pace of Digital Transformation

Although China's international commercial arbitration is accelerating its digital transformation, compared with mature countries such as Singapore and the United Kingdom, China's international commercial arbitration is still in the stage of structural optimization and mechanism integration in the application of digitalization, and has not yet formed an intelligent and interconnected systematic digital arbitration system. At present, digital technology is integrating with arbitration in the form of new concepts, new models and new business forms. Intelligence has changed the trajectory of the development of the international commercial arbitration system (Liu, X. H., & Feng, S., 2024, pp. 63-82, pp. 200-201). In 2023, the China International Economic and Trade Arbitration Commission is committed to fully leveraging digital technologies to enhance arbitration services. Focus on improving the online application system and optimizing the intelligent dispute resolution platform. In 2024, there were 1,804 cases filed online throughout the year, accounting for one-third of the total number of cases, with a year-on-year growth of 34.63% (Liu, Y. F., 2025, pp. 25-37). Currently, artificial intelligence (AI) is playing an active role in the field of international commercial arbitration, achieving a leap from "tool-type" to "decision-making assistance type". It can help arbitrators process relevant information more quickly, as well as draft agreements, select arbitrators, and intelligently generate judicial documents, etc. The Guangzhou Arbitration Commission has launched the world's first AI secretary, "Zhong Xiaowen". Complete the international commercial arbitration hearing without a real secretary. However, its wide promotion is still limited by multiple factors such as lagging legal rules and insufficient trust from the parties involved.

2. Problems Faced by International Commercial Arbitration in China

2.1 Legislative Deficiencies in China's International Commercial Arbitration

Arbitration, as the most commonly used means of resolving international commercial disputes, is more efficient in resolving disputes compared to litigation, which is time-consuming and costly. Although the "Arbitration Law of the People's Republic of China" has been implemented and partially adjusted, it still lags behind the progress of international commercial arbitration and fails to fully conform to the internationally accepted standards. The most prominent contradiction is reflected in the legal absence of the AD hoc arbitration system. AD hoc arbitration is a highly flexible arbitration system. Its notable feature is that the arbitration process does not require the leadership of a permanent arbitration institution. The parties enjoy full autonomy and can jointly select arbitrators to advance dispute

resolution in accordance with agreed or established arbitration rules until a ruling is formed (Qiao, X., 2015). At present, the 2024 "Arbitration Law (Revised Draft)" has made amendments to AD hoc arbitration. However, both Article 16 and Article 18 of the current "Arbitration Law" of China require that an arbitration agreement must select an arbitration commission, resulting in incompatibility between the legal provisions. Secondly, although China has not explicitly prohibited "interim arbitration", it has only been explored in some regions. The 2024 Revised Draft has significantly narrowed the scope of application of the provisional arbitration system compared to 2021, limiting it to disputes arising in foreign-related maritime affairs and disputes with foreign-related factors between enterprises registered and established in free trade zones approved by The State Council. When applying "interim arbitration", the selection of interim arbitrators and other related supporting procedures should be taken into consideration. AD hoc arbitration allows the parties to independently determine key procedural matters such as arbitration rules, the number and appointment method of arbitrators, the place of arbitration, language and applicable laws based on the characteristics of the case and their own needs. It is not bound by the fixed rules of institutional arbitration and places greater emphasis on the autonomy of the parties and the "contract-based" nature of the arbitration system. Its approach is contrary to the common practice in the field of international arbitration. In a cross-cultural and different legal tradition context, AD hoc arbitration offers the parties the possibility to avoid institutional preferences and cultural conflicts. As it is not subject to the requirements of institutional filing and public announcement, the interim arbitration procedure is usually more confidential. The interim arbitration has simplified the basic process in international commercial arbitration, shortened the cost of time and money. The various advantages of interim arbitration have attracted more international commercial entities (Shi, C. L., 2018, pp. 24-31). The absence of the provisional arbitration system in China has led to a decline in the competitiveness of China's international commercial arbitration in international commercial arbitration centers, hindering the internationalization process of China's international commercial arbitration.

2.2 The Internationalization Degree of Arbitration Institutions Is Insufficient

It is still weak in the internationalization of arbitration institutions. Although arbitration institutions represented by CIETAC have carried out international arbitration business, their composition of arbitrators, arbitration language, and procedural design still show a trend of localization. According to statistics, the proportion of foreign arbitrators currently registered with CIETAC is less than 30%, and the majority of foreign arbitrators have not participated in substantive case adjudication. According to the 2023 annual report of CIETAC, foreign arbitrators were appointed a total of 136 times throughout the year, among which 90 times were solely held by foreign parties. There are still deficiencies in the internationalization of the institution. Meanwhile, the majority of arbitration proceedings are conducted in Chinese. According to the CIETAC report, only about 2% of cases were handled in pure English or bilingual (Chinese and English) in 2022, reflecting that English support remains relatively weak. It sets a threshold for international commercial parties whose main language is English. Strengthening the

guarantee of foreign-related legal talents is the primary task for promoting the high-quality development of the Belt and Road Initiative and realizing its institutionalization (Qi, S., & Ren, L. F., 2024, pp. 351-366). Many countries along the Belt and Road Initiative use minor languages as their national languages, and different legal systems and cultural backgrounds have all increased the cultivation of legal talents related to international business in China. At present, the vast majority of higher education institutions focus on the output of domestic legal theories, while the cultivation of practical abilities in international arbitration is relatively scarce, and high-quality specialized projects are also scarce. There are approximately 640 regular colleges and universities across the country that offer law-related majors, among which only about 30 have substantially established commercial arbitration courses. These institutions mainly include 20 leading universities participating in the joint Master's program in international arbitration by the Ministry of Education and the Ministry of Justice, as well as a few universities that independently offer in-depth arbitration practice courses. Overall, the proportion of law schools that systematically offer commercial arbitration courses is only about 4.7%. Under the background of the Belt and Road Initiative, there is a significant gap between this proportion and the urgent need for international arbitration talents.

2.3 Legal Challenges of Digital Technology in International Commercial Arbitration

Based on algorithms and deep learning technologies, artificial intelligence can assist arbitration tribunals in organizing evidence, focusing on disputes, automatically forming tribunals and advancing procedures, and helping to write awards, comprehensively enhancing arbitration efficiency and effectively reducing costs. Digital technology is not neutral. The application of artificial intelligence can significantly reduce the amount of case files that arbitrators review, more efficiently complete the ascertaining of case facts, and achieve a certain accuracy rate. The overall case processing time can be reduced to two-thirds. However, as long as 1% of errors are implemented in the case, it may affect the fairness and impartiality of the case (Ma, C. S., 2024, pp. 127-142). In the arbitration mechanism, a virtualized arbitration system may have an impact on the autonomy of the parties' will. Firstly, in a virtual hearing, when the parties to the arbitration have agreed to resolve the dispute through arbitration but have not reached an agreement on whether to adopt a virtual hearing, or when one party explicitly opposes the online procedure, does the arbitration tribunal have the right to forcibly arrange an online hearing? If both parties immediately and clearly express their acceptance of the virtual hearing, can the arbitration tribunal still refuse to adopt the online procedure at this time? (Ning, Y., 2024, p. 1138). Secondly, under the virtualized arbitration system, if the parties do not agree on the place of arbitration through autonomy of will, where exactly the place of arbitration for online arbitration awards should be becomes a problem (Liu, X. H., & Feng, S., 2024, pp. 63-82, pp. 200-201). If the place of arbitration cannot be established, it may result in different applications of the governing law and make it impossible for both parties to determine in which country they should file a lawsuit to apply for revocation or enforcement. Secondly, the application of artificial intelligence will undermine the advantages of arbitration. The resolution of commercial disputes inevitably involves a large amount of

commercial sensitive information and personal information. The application of artificial intelligence will inevitably lead to a large number of judgments being made public. The supervision and security assessment mechanism for cross-border data flow is still not perfect, which is prone to cause disputes and even legal risks in foreign-related commercial disputes.

2.4 Facing the Predicament of Handling ESG Disputes

When dealing with disputes related to environment, society and governance (ESG), China's international commercial arbitration is confronted with a series of legal challenges and institutional bottlenecks. The current international commercial settlement mechanism in China has not yet formed a complete response system. With the development of the global era, ESG has become one of the top ten important matters in international business. At present, the domestic academic circle's research on ESG is still confined to the field related to climate change response, and the research is relatively limited (Gao, Q., 2023, pp. 165-177). First, traditional commercial arbitration mainly focuses on property disputes, while ESG disputes often involve non-property obligations, typically including carbon neutrality commitments and corporate social responsibility, and are highly dynamic and morally oriented. Courts find it difficult to clearly define the boundaries of rights and obligations during case acceptance and trial, leading to the practical predicament of "difficulty in case acceptance" and "difficulty in characterization" for some ESG-related arbitrations. Second, the boundaries of disputes are ambiguous. Traditional arbitration centers on "commercial" disputes, which are characterized by private rights, meaning that disputes are limited to the disposition of private law rights among equal civil subjects. Disposability means that the parties have the right to freely dispose of the subject matter. The autonomy of will and the jurisdiction of arbitration stem from the prior or temporal agreement of the parties. From the perspective of ESG, first of all, ESG carbon emission responsibility involves public environmental rights, community human rights violations and social welfare, which go beyond the scope of private rights. Secondly, the responsibility for environmental restoration cannot be unilaterally exempted by enterprises. Finally, third-party victims such as affected workers in the supply chain and residents of contaminated communities are unable to sign arbitration agreements.

3. Improve the Path for International Commercial Arbitration in China

3.1 Implement a Dual-Track Legislative Model of Interim Arbitration and Institutional Arbitration Rules

At present, institutional arbitration dominates the arbitration field in our country, and the arbitration law and rule system is also constructed around institutional arbitration. This model has formed a solid operational foundation and inertia. To reduce the impact on the existing arbitration system and promote the effective implementation of the interim arbitration system, it is suggested that a dual-track legislative model of parallel interim arbitration and institutional arbitration rules be established in the "Revised Draft". Specifically, independent rule systems should be established for each of the two arbitration models, with dedicated chapters set up to systematically regulate AD hoc arbitration. The

practice of embedding AD hoc arbitration rules into the legislative framework of institutional arbitration should be abandoned. When implementing dual-track legislation, on the one hand, it is necessary to clearly distinguish the differences between institutional arbitration and AD hoc arbitration in terms of the scope of application, the determination of the validity of arbitration agreements, and the mechanism for selecting arbitrators, to avoid confusion in the application of rules. On the other hand, the coordination and interaction between the two should be strengthened. Arbitration institutions can be allowed to moderately intervene in the interim arbitration procedure, providing professional support and procedural assistance for the interim arbitration to ensure the smooth progress of the interim arbitration process.

Expand the scope of application of the interim arbitration system. The primary task is to expand the applicable boundaries of the interim arbitration system. This can be achieved by deleting or relaxing the existing restrictive provisions on the scope of application of interim arbitration, fully respecting the parties' right to independently choose the arbitration method, and releasing the flexible and efficient institutional advantages of interim arbitration. This move not only meets the diverse demands of the parties for dispute resolution methods, but also helps China's arbitration system align with international common practices, enhancing the internationalization level of the arbitration field.

3.2 Optimize the Structure and Governance Mechanism to Enhance the Internationalization Level of Arbitration

To address the issue of insufficient internationalization of arbitration institutions, it is urgent to promote systematic improvements from three dimensions: optimizing the structure of the arbitrator team, enhancing language service capabilities, and internationalizing institutional governance. First, a clear target for increasing the proportion of foreign arbitrators should be set. It is encouraged to introduce high-level arbitration experts with backgrounds in the common law system, EU law, and the legal jurisdictions of countries along the Belt and Road Initiative. In particular, in international commercial cases, arbitrators with international reputation and practical experience should be given priority to be appointed as presiding arbitrators or sole arbitrators. Second, improve the language system design to ensure that when parties choose common languages such as English, arbitration institutions have the corresponding procedural organization, written material processing and award writing capabilities, and safeguard the equal procedural rights of non-Chinese parties. Third, promote the internationalization reform of the management of arbitration institutions, introduce international experts into key governance structures such as rule-making committees and procedural supervision departments, and enhance the transparency and credibility of the system. Through the above measures, it is expected to enhance the international appeal and competitiveness of China's arbitration mechanism and achieve a true international transformation. Fourth, we will promote cooperation between universities and arbitration institutions as well as law firms to establish joint training programs, strengthen practical teaching and case studies, expand the coverage and training scale of the Master of International Arbitration program, and encourage the establishment of more high-quality special

programs focusing on commercial dispute resolution along the Belt and Road Initiative.

3.3 Build a Secure and Efficient International Commercial Digital Arbitration Procedure Rule System

Artificial intelligence should be positioned as an "auxiliary tool" rather than a "judicial subject", and the core principle should always be to safeguard procedural justice and the autonomy of the parties' will. During the arbitration process, artificial intelligence can be used for "technical matters" such as initial evidence screening, identification of disputed points, and process scheduling, rather than participating in the substantive judgment of the case and the determination of the award result, to ensure that the arbitration tribunal retains the final discretion and avoid the fairness of dispute resolution being affected by algorithmic errors. Specialized norms should be formulated to clearly define the functional boundaries, responsibility assumption and result review mechanisms of artificial intelligence applications, and strike a balance between efficiency improvement and rights protection. Secondly, the applicable boundaries of virtual procedures should be clearly defined in the arbitration procedure rules, and the parties' right to express themselves regarding the online arbitration model should be strengthened. In terms of the application of virtual hearings, the basic principle of "voluntary participation by both parties and priority given to mutual agreement through procedures" should be established. When one party refuses an online procedure, the arbitral tribunal shall not force an arrangement. When both parties clearly express their acceptance of the virtual hearing, the arbitration tribunal should also respect the parties' choice and must not arbitrarily refuse the online procedure arrangement. At the same time, clear regulations should also be made on the issue of "online arbitration venues" to ensure that the legal application, revocation and enforcement paths of the awards are stable and predictable. The legal effect of electronic arbitration agreements and the acceptance standards for electronic signatures can be clearly defined by referring to the arbitration rules of the International Chamber of Commerce and the practices of the Singapore International Arbitration Centre, fundamentally resolving the legal application obstacles caused by the uncertainty of the arbitration venue.

3.4 System Construction for Addressing ESG Disputes

In the face of the challenges posed by ESG disputes to traditional international commercial arbitration mechanisms, China needs to establish an arbitration resolution system that is in line with them. It is suggested that the Supreme People's Court issue judicial interpretations to clearly incorporate specific ESG disputes into the category of "commercial relations", and encourage arbitration institutions to establish dedicated ESG dispute procedure rules to address the issues of "difficulty in case acceptance" and "difficulty in characterization". In terms of jurisdiction, it is possible to allow groups whose interests have been compromised to elect representatives to participate in arbitration, or to incorporate third parties in the supply chain into the arbitration constraints through the principle of "agreement inheritance", in order to break through the restrictions imposed on third parties by traditional arbitration agreements. To address the conflict between the demand for ESG transparency and the confidentiality of arbitration, a transparency rule of "confidentiality as the principle and disclosure as the exception"

should be established, allowing the parties to jointly choose to disclose the desensitized summary of the reasons for the award to respond to public interest concerns. At the same time, it is necessary to strengthen the construction of the arbitrator team, establish a list of ESG expert arbitrators and provide professional training to enhance the ability of arbitration tribunals to handle cross-disciplinary disputes. In addition, it is necessary to encourage the embedding of ESG professional mediation links in the arbitration process, and take advantage of the mediation to seek comprehensive solutions including enterprise rectification, environmental restoration and other contents, so as to meet the dynamic and ethically-oriented needs of ESG disputes.

4. Conclusion

China's international commercial arbitration has made remarkable progress in institutional construction, rule innovation and digital transformation, and has become an important participant in the global arbitration governance system. However, it still faces challenges such as the absence of an interim arbitration system, insufficient internationalization of institutions, lagging application rules of digital technology, shortage of high-end foreign-related talents, and insufficient ability to deal with new types of disputes such as ESG. For this reason Systematic measures should be taken, such as establishing a dual-track legislative model of interim arbitration and institutional arbitration in parallel, expanding the openness of the arbitration system, optimizing the structure of arbitrators and multilingual service capabilities, clarifying the program boundaries and review mechanisms of artificial intelligence applications, strengthening foreign-related arbitration and the training of legal talents in countries along the "Belt and Road", and exploring special arbitration rules for new types of disputes such as ESG. Comprehensively enhance the international competitiveness, credibility and adaptability of China's international commercial arbitration, and provide strong support for building a new pattern of higher-level opening up and a new highland of arbitration in the Asia-Pacific region.

References

Gao, Q. (2023). Climate Change Response ESG Litigation: Strategies and Pathways. *Dongfang Legal Studies*, *2023*(04), 165-177.

Guo, L. L. (2024). *Research on the Application of Rapid Arbitration Procedures in International Commercial Arbitration*. Jilin University.

Liu, X. H., & Feng, S. (2024). International Commercial Arbitration in a Time of Great Changes: Global Trends and China's Response. *Social Sciences of China*, *2024*(12), 63-82, 200-201.

Liu, Y. F. (2025). The Limits of Artificial Intelligence Application in International Commercial Arbitration. *Journal of South China University of Technology (Social Sciences Edition)*, *27*(03), 25-37.

Ma, C. S. (2024). The Legal Boundaries of Digital Justice. *Eastern Law*, *2024*(04), 127-142.

Ning, Y. (2024). On the Impact of Virtual Arbitration in International Commercial Arbitration on Party Autonomy. *Dispute Settlement*, *10*, 1138. https://doi.org/10.12677/DS.2024.102156

Qi, S., & Ren, L. F. (2024). Mechanized Innovation for High-Quality Co-construction of the "Belt and Road" and Legal Talent Support for Foreign-related Cases. *Research on Legal Education*, *45*(02), 351-366.

Qiao, X. (2015). *Arbitration Law*. Beijing: Tsinghua University Press.

Shi, C. L. (2018). The Positioning and Development of International Commercial Arbitration in the "Belt and Road" Dispute Settlement Mechanism. *Journal of Law*, *39*(08), 24-31.