

China Adopts First Substantive Amendments to Arbitration Law

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INTRODUCTION

On 12 September 2025, the Standing Committee of the National People's Congress adopted the first substantive amendments to the Arbitration Law of the People's Republic of China (the "PRC") since its coming into force in 1995.¹ The Arbitration Law had previously undergone minor amendments in 2009 and 2017² and a period of internal review and public comment since 2021.³ The resulting amended Arbitration Law consists of 96 articles in eight chapters and will come into force on 1 March 2026 (the "Amended Law").⁴

The Amended Law seeks to promote arbitration administered by Chinese arbitral institutions in China and overseas. It also opens the door for foreign arbitral institutions to set up offices in China. Notable changes in the Amended Law include an expansion in arbitrable disputes, a loosening of the rules around arbitral institutions in the PRC, recognition of ad hoc arbitration for certain disputes and streamlining of the regime of interim measures in support of arbitration.

We set out below some of the key changes made in the Amended Law.

ARBITRABILITY

The Amended Law broadens the parties that are eligible to arbitrate to include natural persons, legal persons and unincorporated organisations.⁵ It clarifies that entities such as partnerships, foundations, trusts and joint ventures have standing to arbitrate.

¹ Amended Law – [link](#). See WIPO on amendments – [link](#).

² English 2017 amendment – [link](#); English 2009 amendment – [link](#).

³ ICC Bulletin Article on the 2021 draft amendment – [link](#); Article – [link](#).

⁴ Amended Law – [link](#). See article 96.

⁵ Article 3.

The Amended Law also specifically permits arbitration institutions to handle international investment arbitration cases, subject to the provisions of the relevant investment treaty or agreement.⁶ This positions Chinese institutions to compete for investment arbitrations with other international institutions, such as the ICC, LCIA, HKIAC and SIAC, as well as with ICSID.

The Amended Law also provides that arbitral tribunals must dismiss requests for arbitration in certain circumstances, including if they find that a party has unilaterally fabricated basic facts in its arbitration application or the parties colluded to infringe upon national interests, social public interests or the legitimate rights and interests of others through arbitration.⁷

ARBITRATION INSTITUTIONS

The Arbitration Law previously limited competence to administer arbitrations seated in the PRC to domestic “arbitration commissions”, which were set up by government departments and chambers of commerce in accordance with that law.⁸ The Amended Law has overhauled the requirements relating to such arbitration commissions, including by renaming them to “arbitration institutions”.

The Amended Law minimises the state-linked character of such arbitration institutions by requiring that they be independent of public institutions.⁹ Such arbitration institutions now must be not-for-profit and for the benefit of the public and abide by internal governance requirements.¹⁰ However, there will still be public oversight of such arbitration institutions, including by requiring that they register with the relevant judicial administration department and be supervised by that department and the China Arbitration Association.¹¹

The Amended Law includes terms which express support for such arbitration institutions to establish business offices outside of the PRC to carry out arbitration activities.¹² The Amended Law also indicates that foreign arbitral institutions may be allowed to establish operations in free-trade pilot zones approved by the State Council

⁶ Article 94.

⁷ Article 61.

⁸ Articles 10–11.

⁹ Article 24.

¹⁰ Articles 13 and 19.

¹¹ Articles 25, 14 and 26.

¹² Article 86.

and the Hainan Free Trade Port and in other areas in accordance with relevant national regulations to carry out foreign arbitration activities.

AD HOC ARBITRATION

The Amended Law now permits ad hoc arbitrations, albeit with certain restrictions. Ad hoc arbitrations are allowed for foreign-related maritime disputes or foreign-related disputes arising between enterprises established and registered in a free-trade pilot zone approved by the State Council or the Hainan Free Trade Port or in other areas prescribed by the state.¹³ However, the arbitral tribunal must meet statutory requirements, and within three days of its formation, the tribunal must file, among other things, the arbitration rules agreed by the parties with the China Arbitration Association.

INTERIM MEASURES

Under the current Arbitration Law, the only interim measures that can be granted by the PRC courts in support of arbitrations seated in the PRC and administered by a PRC arbitration commission are property preservation orders. The Amended Law now broadens the range of available interim measures for such arbitrations to also include conduct and evidence preservation orders.¹⁴ This aligns the scope of interim measures available under the Arbitration Law to those available under the Hong Kong and Macau arrangements for mutual assistance in court-ordered interim measures in aid of certain arbitration proceedings.¹⁵

It also streamlines the process for the PRC courts to issue interim measures in support of arbitration by permitting parties to apply directly to the court in emergencies (where parties previously had to apply for such measures via the arbitration commission) and requires PRC courts to determine application for interim measures in a timely manner in accordance with the law.¹⁶ This effectively requires such applications to be ruled on within 48 hours, in accordance with China's Civil Procedure Law. However, the

¹³ Article 82.

¹⁴ Articles 39 and 58.

¹⁵ Arrangement Concerning Mutual Assistance in Court-Ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and the Hong Kong Special Administrative Region, which entered into force on 1 October 2019, Article 1; Agreement for mutual assistance regarding interim measures issued in arbitration proceedings in Mainland China and Macau, which entered into force on 25 March 2022, Articles 1 and 2.

¹⁶ Articles 39 and 58.

Arbitration Law continues to reserve the ability to grant such measures to the PRC courts.

SET ASIDE

The Amended Law reduces the time available to apply to set aside an award from six months to three months.¹⁷ An award may be set aside by the Intermediate People's Court in the following circumstances: (1) there is no arbitration agreement; (2) the matter decided does not fall within the scope of the arbitration agreement, or the arbitration institution is not competent to arbitrate; (3) the constitution of the arbitral tribunal or the arbitration procedure violates the statutory procedures in the Amended Law; (4) the evidence on which the award is based is forged; (5) the other party conceals evidence that is sufficient to influence the fairness of the award; (6) the arbitrator engaged in acts of bribery; or (7) the award is contrary to the public interest.¹⁸

OTHER NOTABLE CHANGES

- **Implied Consent to Arbitrate.** Under the Amended Law, there is an implied consent to arbitrate unless a party denies consent to arbitration before the first hearing. If no such denial occurs, the arbitral tribunal shall remind the parties and record the lack of denial, and an arbitration agreement will be deemed to exist.¹⁹
- **Arbitrator Disclosures.** Arbitrators must promptly disclose any circumstances which may cause the parties to have reasonable doubts about his or her independence and impartiality to the arbitral institution, which must then notify the parties of the circumstances disclosed.²⁰
- **New Method for Appointment of Presiding Arbitrator.** Where the arbitral tribunal is to be composed of three arbitrators, the presiding arbitrator may now be nominated by the co-arbitrators if the parties agree.²¹

¹⁷ Article 72.

¹⁸ Article 71.

¹⁹ Article 27.

²⁰ Article 45.

²¹ Article 43.

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- **Enhanced Evidence Collection Powers.** Arbitral tribunals now have the power to collect evidence on their own initiative (if deemed necessary) and may request that the parties provide assistance with the process.²²
 - **Online Arbitrations.** The Amended Law allows arbitrations to be conducted online, unless the parties disagree.²³ It also states that online arbitrations will have the same legal effect as offline arbitrations.
 - **Partial Recognition of Competence-Competence:** The Amended Law now partially recognizes the competence-competence principle, permitting tribunals or arbitration institutions to rule on the validity of arbitration agreement. However, a court ruling will prevail should one party seek a ruling from the court.²⁴
 - **Recognition of Agreed Seat for Foreign-Related Cases.** The Amended Law formally recognises that parties may agree a seat of arbitration in foreign-related cases.²⁵ If the parties have not agreed on an arbitral seat, it shall be determined in accordance with the arbitration rules agreed or failing that, with regard to the circumstances of the case and in accordance with the principle of facilitating resolution of the dispute.
 - **Framework for Recognition and Enforcement of Foreign Awards.** The Amended Law codifies the existing framework for the recognition and enforcement of foreign awards. Parties may seek enforcement by application to the intermediate court based on residence of the creditor, asset location, or appropriate connection to the dispute.²⁶ In handling these cases, courts are to act in accordance with applicable international treaties or in accordance with the principle of reciprocity.
 - **Good Faith.** The Amended Law requires that arbitration shall follow the principle of good faith,²⁷ which underlies various provisions in the conduct expected of parties, arbitrators and institutions.²⁸ Therefore, the general reference to good faith indicates that parties, arbitrators and institutions are to act honestly and reasonably in the arbitration of proceedings. For example, in terms of the appointment of arbitrators, the Amended Law requires that arbitrators must be “fair and impartial” and “possess good professional competence, be diligent and conscientious, and maintain integrity

²² Article 55.

²³ Article 11.

²⁴ Article 31.

²⁵ Article 81.

²⁶ Article 88.

²⁷ Article 8.

²⁸ For example, see Articles 7, 9, 21, 45, 46, 61.

and honesty.” It also prohibits the parties from engaging in fraud to pursue arbitration for improper purposes.²⁹

Conclusion. The Amended Law represents a meaningful modernisation of the PRC arbitration framework and builds on prior legislative support for arbitration as a dispute resolution mechanism in the PRC. However, parties will need to be mindful of several features of the Amended Law, most notably the possibility for implied consent to arbitrate and the contours of the principle of good faith to be complied with throughout the arbitral process. As the Amended Law comes into force, parties should closely monitor its implementation and any further guidance from Chinese authorities or arbitration institutions.

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Please do not hesitate to contact us with any questions.



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²⁹ Article 61.



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