

Recognition and Enforcement of Arbitral Awards under the 1958 New York Convention in China

The past sixty years has demonstrated the monumental success of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“the Convention”). Since China acceded to the Convention in 1986, it has been implemented directly and preferentially across different levels of Chinese courts, thanks to various legislative and judicial initiatives, including the Supreme People’s Court’s introduction of a Negative Reporting System. Today, Chinese courts generally show a pro-enforcement bias and practice self-restraint in using Art V of the Convention to deny recognition and enforcement of foreign arbitral awards in China. However, with the fast development of arbitration practice in China, Chinese courts have encountered new challenges in applying the Convention. Two issues are of particular interest: (1) whether awards made by foreign arbitration institutions seated in China can be recognized and enforced under the Convention as non-domestic awards (Dufenco case and Longlide case); and (2) whether awards made outside China without foreign elements can be recognized and enforced under the Convention (Siemens case). This talk considers these issues in light of the inherent incongruence between the Chinese arbitration system and the framework under the Convention. It explores possible solutions to this tension and concludes that both issues should be answered in the positive.



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CHEN Li is the vice dean and Professor of International Law at Fudan University School of Law. She is the standing councilor of China Private International Law Association. She is also an arbitrator of both Shanghai Arbitration Commission and Shanghai International Arbitration Center. Professor Chen obtained her LLB, LLM and Ph.D. in Fudan University, and Post-Graduate Diploma in Common Law in Hong Kong University. She specializes in private international law, international economic law and Antarctic governance. Professor Chen has

been awarded several government level prizes on her teaching and research achievements. In recent years, she has completed several government-sponsored research programs focusing on the reform of Chinese arbitration law, possible solutions of China’s non-market economy status under the international trade remedy laws as well as Antarctic governance. She was a visiting scholar of Max Planck Institute for Comparative and Public International law (Germany in 2001), International and Area Study Center of Yale University (Fox International Fellowship 2004-2005), Center for Ocean Law and Policy in University of Virginia (US-China Fulbright Visiting Scholar 2012-2013), and has also spoken at international conferences in the U.S., Korea, Germany, U.K., Denmark, Japan, Macau SAR and Taiwan area.

A light lunch will be served, please RSVP to cals@allard.ubc.ca.



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