frontiers | Frontiers in Marine Science

TYPE Review
PUBLISHED 24 October 2022
DOI 10.3389/fmars.2022.986617



OPEN ACCESS

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SPECIALTY SECTION
This article was submitted to Marine Affairs and Policy, a section of the journal Frontiers in Marine Science

RECEIVED 25 July 2022
ACCEPTED 28 September 2022
PUBLISHED 24 October 2022

CITATION
Chu B and Wang W (2022) Building an international arbitration hub: China's competitiveness and direction. *Front. Mar. Sci.* 9:986617. doi: 10.3389/fmars.2022.986617



# Building an international arbitration hub: China's competitiveness and direction

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Building an international arbitration hub or a regional international arbitration hub has become the development goal and future direction of many countries and regions. The Chinese arbitration community has also been exploring the possibility of establishing an international arbitration hub in China. By issuing *the Several Opinions on Promoting the Sound Development of the Maritime Industry* in 2015 and *the Plan for Further Deepening the Reform and Opening-up of China (Shanghai) Pilot Free Trade Zone* in 2017, the State Council of the PRC deployed a key task, that is, to develop a modern shipping service industry (including maritime arbitration), and further set the goal of "exploring the establishment of a national arbitration legal service alliance for pilot free trade zones and an exchange and cooperation mechanism for Asia-Pacific arbitration institutions, so as to accelerating the formation of a global-oriented Asia-Pacific arbitration hub in China". In this context, China has initiated the revision of *the Arbitration Law of the People's Republic of China*, and foreign-related arbitration institutions in China have invested considerable resources in exploring ways to improve their level of arbitration services. In this article, the authors will discuss whether China has the competitive advantages to establish an international arbitration hub and its possible direction of efforts from the perspective of comparative analysis of several major countries, regions or institutions that are currently in the leading position in the global arbitration service industry.

KEYWORDS

**International Arbitration Hub, arbitration law, arbitration, competitiveness, direction, opportunity, China**

# 1 The starting point to build an international arbitration hub in China

## 1.1 Definition of an "International Arbitration Hub" in the China's context

As Professor Maurizio Gotti noted in his works *Arbitration Discourse in Asia* (Bhatia and Gotti, 2015), the term "foreign-related arbitration", instead of the concept of "international arbitration", is used in *the Arbitration Law of the PRC* in force, which mainly refers to any arbitration proceedings for the settlement of foreign-related economic and trade, transportation and maritime disputes[1]. Based on the authors' survey, the majority view considers that, under the current Chinese legislation model for arbitration law, "foreign-related arbitration" is not the same term as "international arbitration", and the two terms have different meanings. As corroboration, CMAC and CIETAC specify in its arbitration rules that its scope of business shall include "international or foreign-related cases". The expression "foreign-related" takes the home country as a frame of reference, that is to say, anything related to but not purely confining in the home country is "foreign-related" (Wu, 2001). According to the PRC civil procedure legislation and the opinions expressed by the Supreme People's Court of the PRC at the 2005 National Foreign-related Commercial and Maritime Trial Conference, the term "foreign-related arbitration" under Chinese law has a specific meaning, and should be construed as an arbitral award with any foreign-related element made by an arbitration institution duly established in China, the enforcement of which shall be governed by Chinese domestic law. As a member state of the New York Convention, China identifies the nationality of an arbitral award based on the "Territorial Standard" (Lin, 2016), that means, any arbitral award made by an arbitration institution located outside China shall be identified as a "foreign arbitral award"[2] and the recognition and enforcement rules stipulated in the New York Convention shall be applicable to such "foreign arbitral award". Moreover, it is particularly noteworthy that, there is a judicial view in China holding that the arbitration agreement agreed by the parties to apply overseas arbitration is invalid since the disputes do not have foreign-related factors[3].

However, from the perspective of the Chinese academic discourse, the mainstream opinion is that the crux of international arbitration is to highlight that the parties submit disputes with international elements to arbitration according to the arbitration agreement (Deng et al., 2010). The understanding of an "international element" is mainly based on the identification elements for "foreign-related civil relations"[4] in Chinese civil legislation, which mainly include one or both parties in an arbitration being a foreign entity (foreign entities), any legal fact that causes any change in legal relations occurred in any foreign country, or the subject matter involved in such arbitration being located in a foreign country (Cai et al., 2009). In other words, despite the international community taking the nationality of any party concerned as the main standard for determining "international arbitration", in China "international arbitration" not only includes such "international arbitration" in which the nationality state of either party in the arbitration is outside the place of arbitration, but also includes an arbitration case with other international element in itself.

The term "International Arbitration Hub", from its literal meaning, may refer microscopically to an arbitration institution, or macroscopically to a territory where high-quality arbitration services are provided, such as a country, a city or a region. However, an International Arbitration Hub, if discussed from the perspective of policy-based guidance, is a research on a macroscopic basis, as will be shown in this essay, referring exactly to a territory that provides high-quality arbitration services. According to a research report of the Institute of International Law of the Chinese Academy of Social Sciences, the core values of an "International Arbitration Hub" lie in the creation of a high-quality ecosystem with international

1 Chapter VII (Special Provisions concerning Foreign-related Arbitration), Article 65, the Arbitration Law of the People's Republic of China: "The provisions of this Chapter shall be applicable to arbitration for foreign-related economic and trade, transportation and maritime disputes. If the provisions of this Chapter do not cover such disputes, the other provisions related to such disputes shall apply."

2 Article 546, Paragraph 1 of the Interpretation of the Supreme People's Court concerning the Application of the Civil Procedure Law of the People's Republic of China (as amended in 2020): "If any legally effective judgment or ruling made by a foreign court or any foreign arbitral award needs to be enforced by a court of the People's Republic of China, the parties concerned shall apply to such people's court for recognition thereof before such enforcement."

3 Tianjin 1st Intermediate People's Court: Case No. (2021) Jin Min Te 11.

4 Article 1, the Interpretation of the Supreme people's Court concerning Several Issues on the Application of the Law of the People's Republic of China on Choice of Law for Foreign-related Civil Relations (Part I): "Any civil relation under any of the following circumstances may be identified by the people's court as a foreign-related civil relation: (i) either party or both parties concerned is/are a foreign citizen(s), a foreign legal entity(ies) or other foreign organization(s) or a stateless person(s); (ii) the habitual residential place(s) of either party or both parties concerned is/are outside the territory of the People's Republic of China; (iii) the subject matter is outside the territory of the People's Republic of China; (iv) any legal fact creating, novating or extinguishing such civil relation takes place outside the territory of the People's Republic of China; or (v) any other circumstances that may cause such civil relation to be identified as a foreign-related civil relation."

credibility in which arbitration and related legal services are provided for domestic and foreign market entities to prevent and resolve disputes by basing on a certain region as the geographic basis; using arbitration institutions as the driving force; and integrating other upstream and downstream legal services institutions or organizations[5]. Specifically, in such an International Arbitration Hub, there should be a sound legal system made of arbitration rules, a group of judges familiar with arbitration rules, excellent arbitration institutions, abundant and experienced arbitration practitioners, a well-developed training system for arbitrators, a client-friendly environment for arbitration, and a convenient geographical location[6].

From the perspective of service positioning, an International Arbitration Hub, for one thing, means the provision of arbitration services to the international market on a global basis, for another, it also means that such arbitration services should be provided with an international inclusiveness and a global vision, a type of products that meets the public expectations of the international market, rather than imprinting the legal rules and norms of a country.

## 1.2 Low volume of accepted international arbitration cases

The status of "International Arbitration Hub" is not self-proclaimed, but comes effectively from a great number of dynamic competitions in the arbitration service market, in other words, which requires time and market testing. Therefore, a territory having the advantageous factors to form an international arbitration hub does not necessarily mean it is or will be an international arbitration hub.

Unlike the jurisdiction of courts based on the judicial power of a country, the international market for arbitration services is based on free will, openness and optionality. There are not only a number of arbitration service providers, but also differentiated arbitration rules, procedures and methods, so there must be competition. In China, about 270 domestic arbitration institutions share China's local market for arbitration service by regional division, and they take arbitral jurisdiction in their respective regions in a state of free from competition. Unlike this, building an international arbitration hub naturally needs to face the international market. Taking maritime arbitration as an example, maritime disputes are usually disputes with distinct international elements, and maritime arbitration services will be exposed to more intense competition on a global scale. Therefore, the core feature of an international arbitration hub is to be widely selected and recognized (in particular, internationally recognized) by the parties concerned because of its voice and predominant position in the same industry.

The 11 maritime courts in China have heard about 30,000 maritime cases every year in the past five years[7], but the number of maritime arbitration cases in China, according to the statistics of the number of cases accepted by the leading institution–CMAC - in the past five years, is only over 100[8] in 2020 (111 cases accepted), far less than the approximately 3,000 cases of the London Maritime Arbitration Association[9]. In the international market for maritime arbitration services, the competitiveness of China's maritime arbitration services is relatively low. At the same time, in the local market, as a major maritime country, despite a great demand for maritime dispute resolution in China every year, few enterprises will choose arbitration as a means of dispute resolution, which shows that an arbitration culture in which arbitration services will be aware of, recognized and selected has not yet been created within the society of China. This is also the current situation that cannot be ignored when building an international arbitration hub in China.

5 Quoted from Zhao Jian's speech at the 6th Ease Lake International Law Forum, titled 'Speeding up the Establishment of an International Arbitration Hub to Promote the Building of a Fair, Reasonable and Transparent System of International Trade Rules'.

6 Seven conditions for an international arbitration hub proposed by Michael Huang, an international arbitration expert from Singapore, which are quoted from Zhao Jian's speech at the 6th Ease Lake International Law Forum, titled 'Speeding up the Establishment of an International Arbitration Hub to Promote the Building of a Fair, Reasonable and Transparent System of International Trade Rules'.

7 According to the annual statistics of the number of accepted cases published by 11 maritime courts in China, 28,787 cases were accepted by 9 maritime courts (excluding Wuhan Maritime Court and Beihai Maritime Court) in total in 2021; 28,459 cases by 10 maritime courts (excluding Beihai Maritime Court) in 2020; 28,348 cases by 8 maritime courts (excluding Tianjin Maritime Court, Beihai Maritime Court and Nanjing Maritime Court) in 2019; 30,613 cases by 10 maritime courts in 2018 (excluding Nanjing Maritime Court, which had not yet been established); 23,783 cases by 8 maritime courts (excluding Qingdao Maritime Court, Beihai Maritime Court and Nanjing Maritime Court) in 2017. The last date when I accessed the official websites of the maritime courts is 26th March, 2022.

8 The data of accepted cases in the past five years published by the China Maritime Arbitration Commission are as follows: 85 cases in 2021, of which foreign-related cases accounted for more than 50%; 111 cases in 2020, of which foreign-related cases accounted for 35%; 91 cases in 2019, of which foreign-related cases accounted for 45%; 65 cases in 2018, of which foreign-related cases accounted for 35%; 72 cases in 2017, of which foreign-related cases accounted for 62.5%. http://www.cmac.org.cn/index.php?catid=13, last access date: 26th March, 2022.

## 1.3 The lag in the formation of the awareness of international arbitration

Arbitration, formally originated in ancient Greece and Rome, developed in the Middle Ages in Europe, has a very long history, and predates the birth of litigation (Li, 1996). The earliest documented arbitration case was initiated in 650 BC to determine the ownership of land (Fraser, 1926). The earliest form of arbitration was *ad hoc* arbitration, which was very popular in medieval Europe (Chen, 2006), while modern international commercial arbitration had been mainly or even only used to resolve disputes arising in maritime commerce or maritime matters for a long time[10]. London, UK, is an international maritime arbitration hub generally recognized by the international community currently, the formation and development of maritime arbitration services in London reflects the feature of a spontaneous formation by individual professionals, not deliberately built by the government or professional organizations. As we all know, the embryonic form of such maritime arbitration services was the practice of seeking the decision by more senior brokers in case no settlement agreement could be entered into by brokers of the Baltic Exchange after disputes arose out of the chartering agreements among their clients. From the well-known Baltic List to the London Maritime Arbitration Association (LMAA) set up by the arbitrators on the Baltic List on February 12, 1960, the maritime arbitration in London has completed formation from spontaneous and unconscious to a conscious and planned role in promoting development; London has gradually developed from a place where original arbitration services for dispute resolution were randomly provided into an international maritime arbitration hub, which has not only gone through 300 years' history[11], but also profoundly influenced and guided the formation and development of the subsequent international arbitration hubs.

However, in the Chinese arbitration history, the tradition of "merchants' autonomy" had never been formed. Modern commercial arbitration, which is a piece of "imported goods", results from the reaction to foreign pressure. In ancient China, the administrative divisions below the county level were not under the jurisdiction of the national judicial authorities, but governed by the gentry (Chun, 2009). The resolution of private disputes depended more on the mediation of the patriarchal clans formed spontaneously by the folk. However, such dispute resolution method was mainly used to resolve the family disputes with no commercial elements, which could not meet the needs of the commercial society, as commercial disputes need to be resolved in a professional manner transcending rural customs and in compliance with cross-regional trade rules.

During the Qing Dynasty, the practice of mediating commercial disputes through guilds was gradually formed, but a standardized mediation system was still not established at the government level. With the gradual increase in trades between Eastern and Western merchants, Western countries established a joint trial system based on consular jurisdiction for the resolution of disputes between Chinese and Western merchants, and set up the "Mixed Court for Joint Trial" in Shanghai Concessions. For this reason, the Qing Government and certain western countries jointly formulated *the Articles of Association of the Pidgin's Mixed Court for Joint Trial* in the Shanghai Concessions (Cai, 2013). In 1904, the Qing Government promulgated *the Concise Regulations for Chambers of Commerce*, which is considered to be the first official confirmation that Chambers of Commerce have jurisdiction over commercial disputes (Xie, 2013). The Government of the Republic of China promulgated *the Regulations of the Commercial Adjudication Tribunal* in 1912, and *the Detailed Rules of the Commercial Adjudication Tribunal* in the following year. As a result, the Commercial Adjudication Tribunal, affiliated to the Chamber of Commerce at the place where it was located, was set up as an institution for resolving disputes among merchants attached to the local chamber of commerce.

*The Labor Law of the Soviet Republic of China* promulgated in October 1933 stipulated that labor departments at all levels may mediate and arbitrate labor disputes at the request of any party to such dispute. At that time, only labor disputes may be submitted for arbitration as the sole dispute resolution method (Huang et al., 2007). Since 1940, arbitration had been applied to resolve some civil and economic disputes in the Liberated Areas. In other words, before the founding of the PRC, commercial dispute resolution methods other than the national central judicial system appeared in the Chinese society, but a set of arbitration rules self-governed by merchants had never been established. After the founding of the PRC, the China Port Supervision Bureau under the Ministry of Transport was granted

9 Currently, there are 270 arbitration institutions in China, of which there are two permanent foreign-related arbitration institutions, namely, the China International Economic and Trade Arbitration Commission (CIETAC) and the China Maritime Arbitration Commission (CMAC). However, if the parties involved in a foreign-related case select any other arbitration institution for arbitration of their free will, such arbitration institution so selected may accept such foreign-related arbitration case, either. Therefore, China has been having an advantage in terms of the number of arbitration institutions having the authority to hear foreign-related cases. However, most of such arbitration cases are submitted to such arbitration institutions in China by the party involved with a Chinese nationality.

10 Mr. Philip Yang's speech titled 'Challenges and Countermeasures in the Development of International Commercial Arbitration / Mediation' at the 2021 Maritime Silk Road International Legal Services Forum in 2021.

11 https://lmaa.london/history/, last access date: 24th November, 2021.

the authority to resolve foreign-related maritime disputes in Chinese waters, who had delegated its relevant duties to the Maritime Affairs Handling Committee, but it still resolved such disputes in accordance with administrative procedures (Gu, 2008).

### 1.4 The deviation of Chinese arbitral procedures from international practices

The first arbitration institution in China was established by the government in response to the need of international economic transaction in 1950s[12]. The arbitration institutes were subordinated to the governmental administrative organs when they were founded then. With the development of the economy and the society after Chinese economic reform, it was proved that the administrative arbitration failed to meet the needs of the market economy. Therefore, the first Arbitration Law of the People's Republic of China (the "PRC Arbitration Law") came into force in 1995 for the purpose of detaching the arbitration institutes from the administrative organs and further confirming that arbitration shall be run independently in accordance with the law. There is no doubt that the arbitration in China has developed greatly and its influence has improved highly and widely after the implementation of the PRC Arbitration Law.

However, although China's arbitration institutes are independent, the management mechanisms of these institutions are still inclined to be administrative and the arbitration procedures are designed to be litigation-like, therefore, several provisions in the PRC Arbitration Law deviate from the international practices. Firstly, *ad hoc* arbitration was valued very much, in particular, in the international maritime arbitration practice, since the procedural flexibility it offered was considered to enhance party autonomy compared to institutional arbitration. While the PRC Arbitration Law recognizes institutional arbitration as the only legal arbitration mode, because of which it's wildly criticized with a rising call for amendment and improvement. Furthermore, *the 2021 International Arbitration Survey* revealed some important features would influence arbitration users' choice of seat over another, including "greater support for arbitration by local courts and judiciary"(56%), "better track record in enforcing agreements to arbitrate and arbitral awards"(47%) and "ability to enforce decisions of emergency arbitrators or interim measures ordered by arbitral tribunals"(39%), etc. Incompatibly, the guiding doctrines in the current Chinese arbitration legislation focus more on the supervision and control of law over arbitration instead of sufficient encouragement, support or assistance to it. Such doctrines can be found in several provisions, such as the strict construction on the validity of an arbitration agreement (for example, a specific arbitral institution must be chosen in the arbitration agreement, as a result, "Arbitration in London" in Chinese law would be turned null and void), the mandatory requirements of arbitral procedure with no sufficient response to party autonomy (for example, hearing is a compulsory procedure, and parties' rights to agree to the arbitral procedure are not fully ensured), and the broad authority of judicial supervision imposed on the courts (for example, interim measures could only be decided by the courts, and the courts take priority of handling the jurisdiction challenge in the arbitration).

The above deviation of arbitral practices not only hinders the high-quality development of arbitration in China, but also makes it more difficult for Chinese arbitration services to be introduced into the international market.

## 2 Difficulties for China to compete with the existing International Arbitration Hubs

### 2.1 The case volume of the International Arbitration Hubs with high-rated international recognition

According to *the 2021 International Arbitration Survey* conducted by the School of International Arbitration at Queen Mary University of London in partnership with White and Case LLP (the "*2021 International Arbitration Survey*")[13], the top-five most preferred seats for arbitration were London(54%), Singapore(54%), Hong Kong(50%), Paris(35%) and Geneva (13%). Notably, New York and Beijing closely followed behind the top-five with the same scores of 12%. Shanghai lied in eighth place with a score of 8%. Hong Kong, Paris and Singapore were all ranked in the top-five most preferred seats in all regions, while, a number of other popular seats reached the top five in several regional subgroups, for example, New York was the second most preferred seat in Caribbean/Latin America, and the third in North America. A comparative analysis is conducted in this article mainly on the review objects of London, Singapore, Hong Kong and Stockholm for the purpose of summarizing their advanced experience to promote the development of arbitration services.

12 The first arbitration institution in China is the China International Economic and Trade Arbitration Commission ("CIETAC"), which was established in April 1956.

13 http://www.arbitration.qmul.ac.uk/research/2021-international-arbitration-survey/, "2021 International Arbitration Survey: Adapting Arbitration to a Changing World", last access date: 19th March, 2022.

London is the undisputed international maritime arbitration hub currently. Although it is difficult to count the exact number of maritime arbitration cases accepted each year due to the conducting of *ad hoc* arbitration proceedings and the confidentiality of arbitration, according to the statistics of the London Maritime Arbitration Association ("LMAA"), it can be learnt about that, in 2021, LMAA full-time arbitrators were appointed in 2,777 maritime arbitration cases accepted by the LMAA, and issued 531 awards therefor[14]. Affected by the COVID-19 pandemic, the number of accepted cases has dropped from 3,010[15] in 2020, but London's leading position in international maritime arbitration has not been affected. Moreover, the LMAA has been supported by a large number of Supporting Members, which will make considerable contributions to its number of accepted cases and excellent influence in the arbitration industry worldwide. The London Court of International Arbitration ("LCIA") also had a good performance, and it accepted 387 cases, of which the cases involved in transportation and trade disputes accounted for 14%, i.e., about 54 cases, and of which the international cases accounted for 85%[16].

In addition to London, Singapore and Hong Kong, which are both in the top five most popular places of arbitration in the world, are highly competitive. Singapore has been rated as the "Global Most Ideal & Safest Place of Arbitration" (Born, 2013). In 2020, the Singapore International Arbitration Centre ("SIAC"), as the main arbitral institution of Singapore, accepted 1,080 cases, of which the international cases accounted for 94%[17], and the number of which, for the first time, exceeded that of cases accepted by the ICC International Court of Arbitration, i.e., 946 cases administered by them, which set a new record for the number of cases accepted by the ICC International Court of Arbitration since 2016 [18]. While, in 2021, SIAC accepted 469 cases, among of which, 86% were international arbitrations and 11% were maritime and shipping cases[19]. In order to reflect the global spread of maritime arbitration hubs[20], the Baltic and International Maritime Council ("BIMCO") incorporated the "Singapore-as-Seat-of-Arbitration Clause" into its Form of Standard Contract in 2012, under which Singapore, London and New York were respectively designated as agreed alternative seats of international maritime arbitration in Asia, Europe and America[21]. As a rising star, Hong Kong has gradually developed into a leading dispute settlement center in Asia due to the rapid development of the Hong Kong International Arbitration Center ("HKIAC"), one of the most outstanding arbitration institutions in Hong Kong established in 1985. According to *the 2015 International Arbitration Survey*[22], Hong Kong has become the global second fastest growing place of arbitration in the past five years, and the HKIAC is the most improved arbitration institution. In 2021, the HKIAC administered 514 new arbitration cases, of which the maritime and shipping cases accounted for about 17%, and the international arbitrations accounted for 81.6%. The total disputed amount in all arbitration cases increased by 2.5 times from US$2 billion in 2013 to US$7 billion in 2021[23].

In addition to international maritime arbitration hubs, the practice of traditional Stockholm commercial arbitration makes Sweden one of the commercial arbitration hubs in European, specializing in resolving international investment disputes. Stockholm came in at ninth in the top ten most preferred seats worldwide in *the 2021 International Arbitration Survey*. In 2020, the Arbitration Institute of the Stockholm Chamber of Commerce ("SCC") registered 165 new cases, involving the parties resided in countries, and of which the international cases accounted for nearly 47%[24]. That demonstrates the international business community's trust in and preference to Sweden, as an investment dispute settlement center.

14 https://lmaa.london/wp-content/uploads/2022/03/Statistics-up-to-2021-for-website.pdf, last access date: 16th March, 2022.

15 https://lmaa.london/wp-content/uploads/2021/02/Statistics-2020-For-Website.pdf, last access date: 24th November, 2021.

16 https://www.lcia.org/News/lcia-news-annual-report-on-2021-lcia-court-updates-and-tylney.aspx, last access date: 27th August 2022.

17 https://siac.org.sg/2013-09-18-01-57-20/2013-09-22-00-27-02/annual-reports, last access date: 16th March, 2022.

18 https://iccwbo.org/publication/icc-dispute-resolution-statistics-2020/, last access date: 16th March, 2022.

19 https://siac.org.sg/wp-content/uploads/2022/06/SIAC-AR2021-FinalFA.pdf, last access date: 27th August 2022.

20 The English source text is "In order to reflect the global spread of maritime arbitration centres", See: BIMCO Standard Dispute Resolution Clause 2013: https://www.bimco.org/~/media/Chartering/Special_Circulars/SC2012_06.ashx.

21 SINGAPORE AS A NEW SEAT IN INTERNATIONAL MARITIME ARBITRATION. BIMCO: https://www.bimco.org/Products/BIMCO_Bulletins/BIMCO_Bulletins_Digital_Issues/2013_05/p08.aspx. Last access date: December 10th, 2015.

22 https://arbitration.qmul.ac.uk/research/2015/, "2015 International Arbitration Survey: Improvements and Innovations in International Arbitration.", published by Queen Mary University of London, in junction with its partners, last access date: 19th March, 2022.

23 https://www.hkiac.org/about-us/statistics, last access date: 16th March, 2022.

24 https://sccinstitute.com/statistics/, last access date: 9th September, 2022.

## 2.2 Advantageous factors in the formation of an International Arbitration Hub

By making a comprehensive comparison of the formation paths and advantageous factors of the arbitration hubs generally recognized by the international community, it can be learnt that there are many different factors that may promote a territory to develop into a place where an international arbitration hub is located: some are geographical factors, such as being located near main shipping routes, while others are humanistic factors such as the stability and predictability of law. There are "internal" factors resting in arbitration proceedings, such as the convenience and flexibility of arbitration procedures and the leading level of arbitration law, while "external" factors go beyond arbitration proceedings, such as the guidance and support for arbitration by any government or judicial authority. some factors are formed through long-term accumulation, such as excellent reputation and high-rated recognition in the shipping community, while others factors are achievable in a shorter period, such as building hardware facilities for arbitration. In summary, the core common factors can be summarized in the following four aspects:

### 2.2.1 Developed economic conditions are the basis for the emergence and development of international arbitration services

As a maritime power with the largest colonial system and transport fleet in the past, the UK was nourished by the long shipping history and its economic prosperity, and has gradually developed a mature and complete maritime arbitration system over the centuries. From the coffee shop started by Mr. Edward Lloyd in 1688, the returning captain's overseas news salon and the fortnightly *Lloyd News* about international trade and shipping, to the world's first marine insurance law - the Marine Insurance Act 1906, as well as today's *Lloyd's List*[25], Lloyd's Register[26], Lloyd's Market and the P&I Clubs, more than a hundred years of practice and accumulation have established the dominant position of London as an international marine insurance center and shipping center. The industrial advantages formed by such high-end shipping services not only has brought a large number of clients to the UK for maritime arbitration services, and provided a huge market driving force for the British maritime arbitration industry, but also has enabled the UK to seize the opportunity of becoming the leading rule-maker, which, to a large extent, has contributed to the UK's leading position in many maritime-related fields, including the dominant position of the international maritime arbitration hub.

The unique geographical locations of Hong Kong and Singapore had created a thriving shipping industry and international culture in both places. As international shipping centers, the developed maritime economy created the industrial foundation for the vigorous development of commercial arbitration and maritime arbitration in Singapore and Hong Kong. Multiculturalism has made the two places more open and inclusive for people from all over the world, and their internationalization allows parties from different countries have confidence in the two places as international arbitration hubs. The high similarity between their languages, cultures and legal systems, and the territorial characteristics of the fusion of the East and the West, has made them generally accepted and recognized in both the East and the West.

As a highly developed capitalist country, the diplomatic policy of permanent neutrality of Sweden has enabled it to avoid the geopolitical adverse effects due to its being in the "intermediate zone" between the East and the West, and has promoted the rapid development of the Swedish economy during the two World Wars and the Cold War. At the same time, the security and stability brought about by the permanent neutral diplomatic status also has made Sweden the "Garden of Eden" for world capital, which laid a solid social and economic foundation for the prosperity and development of the arbitration industry in Sweden. This is the unique advantage of Sweden in developing into an international investment dispute settlement center.

### 2.2.2 A good arbitration environment is an external requirement for the formation of an international arbitration hub

The sustainable development of the arbitration industry is inseparable from a good arbitration environment, the creation of which depends on mature and sound legal protection and appropriate judicial support. The UK has strongly supported the development of international arbitration services from both legislation and judicial level, despite the fact that the UK's attitude towards arbitration has also experienced a development process from repression to support. As the first country in the world to promulgate *the Arbitration Law*, the UK was also hostile to the development of arbitration in the early days, believing that arbitration encroached on the jurisdiction of the Kingdom (Born, 2021). This opinion was exemplified in *Kill v. Hollister (*Hollister, 1746*).* where the court upheld the plaintiff's initiation of court proceedings in the case of a valid arbitration agreement in the insurance policy on the grounds that "the agreement between the parties cannot exclude the jurisdiction of the court". Until *Scott v. Avery (*Avery, 1856) in the mid-19th century, the court justified arbitration, holding that taking arbitration as an alternative resort in lieu of court action did not violate public policy. Since then, a trend of a gradual

25 The earliest maritime-related publication, published in London in 1734, weekly in the early days and now on a daily basis.

26 Lloyd's Register, founded in 1760, the world's first ship classification and inspection organization.

reduction of court interference in arbitration procedures had been appearing in the arbitration laws enacted in 1889, 1950 and 1979. *The Arbitration Law 1996* empowers arbitrators to take interim measures, while establishing several general principles, such as Party Autonomy, Balance between Efficiency and Fairness, and Judicial Non-Intervention, which has provided a favorable legal environment and good guarantee for the development of maritime arbitration in London. In recent years, in order to defend London's status as an international arbitration hub, English courts have frequently taken exclusive measures to maintain its arbitration jurisdiction, including issuing anti-suit injunctions against extraterritorial legal proceedings, showing a new characteristic of the measure that supports the development of arbitration.

As the second country in the world to enact *the Arbitration Law*, the legislative concept of practicality first is the inherent cause for the promotion of Swedish arbitration industry. Swedish legal system is a combination of scattered written law and precedents, and its inherent basic legal principles are compatible with both the Civil Law Systems and the Common Law System. The provisions in Swedish law tend to be concise and direct, and are very friendly to foreign parties from different legal systems and cultural backgrounds to efficiently understand the basic spirit and value orientation of Swedish law, which improves the trust and recognition of Swedish arbitration in the international arbitration market.

The support of the legal system and the judiciary for arbitration in the UK has greatly affected Hong Kong and Singapore, both of which are Common Law System. Hong Kong has amended its arbitration legislation from time to time to provide legal protection for the arbitration industry in Hong Kong, in particular, Hong Kong legislation has established the authority of arbitrators (including strictly limiting the liabilities of arbitrators and limiting the circumstances under which the court may revoke an arbitral award) to maintain the healthy development of the arbitration industry. Hong Kong Judiciary has adopted a "non-intervention" attitude towards arbitration and has been highly supportive to arbitration. Hong Kong courts have been maintaining an excellent record of enforcing arbitral awards, which can be effectively enforced regardless of whether they were made by Hong Kong arbitration institutions. In *the International Arbitration Law 1994*, Singapore has established the judicial assistance by the courts to arbitral tribunals, including issuing an anti-suit injunction, assisting an arbitral tribunal in issuing an interim order, and issuing a summons to assist an arbitral tribunal in forcing witnesses to testify. Singapore courts had been adhering to the principles of Judicial Deference and Party Autonomy when dealing with arbitration procedures and arbitral awards, and endowed arbitral tribunal with a wide range of authorities. As a matter of fact, the attitude of the courts in Hong Kong and Singapore towards arbitration is at the same pace with the development of global cognition of the relationship between the judiciary and arbitration.

### 2.2.3 Flexible arbitration procedures are the fundamental reason for the vitality of an international arbitration hub

Fairness, convenience and efficiency are not only the value that should be reflected in international commercial arbitration, but also the touchstone to measure the advancedness of arbitration legislation and arbitration procedures in various countries. The design of arbitration rules and arbitration procedures of arbitration institutions in various countries is also aimed at achieving fairness, convenience and efficiency to the greatest extent. Among them, the positive significance brought by the attitude towards the development of *ad hoc* arbitration is the most typical example. The parties can choose the arbitration procedure of their free will, which is one of the advantages of arbitration, and can offer a better chance for the parties to achieve the purposes of saving costs and reducing antagonism. Naturally, such advantage would be lost if arbitrators were required to conduct an arbitration following the same rigid procedures as those of the courts in accordance with the arbitration rules (Robert Merkin, 2019). That shows the importance of procedural flexibility to the realization of the values of arbitration.

*Ad hoc* arbitration is the initial form of arbitration. The flexibility of *ad hoc* arbitration is the core element for London to maintain its leading edge in maritime arbitration. When a party concerned chooses to resort to arbitration for dispute settlement, the party not only considers completing a dispute settlement process according to fixed procedures, but also uses various legal and commercial strategies in the process to achieve the desired appeal of maximizing its rights and interests. The procedural flexibility and the protection for party autonomy that reflect in *ad hoc* arbitration are the core reasons why London maintains the central position in maritime arbitration. The LMAA arbitration rules have been amended from time to time to meet the actual market demands, and new procedural innovations are introduced, such as mediation rules, small claims procedural rules and medium claims arbitration procedures, which have played a good role in promoting fast and efficient settlement of disputes, and are highly popular in the maritime market. As for arbitration in Hong Kong and Singapore, their arbitration rules and arbitration laws have also been well-designed to meet the needs in practice. *Ad hoc* arbitration is the legal and main form of arbitration in both Hong Kong and Singapore, and arbitration institutions there can also appoint arbitrators for *ad hoc* arbitration. *Ad hoc* arbitration reflects the principle of party autonomy from the beginning of arbitration, the progressing and costs aspects, which provides the party concerned a strong control over the arbitration proceedings, and allows the experienced party to formulate

and implement flexible strategies in arbitration to achieve its arbitration expectations. That is also the main reason why *ad hoc* arbitration is still inherited and developed in the field of international maritime arbitration when arbitration institutions spread all over the world.

On the contrary, although Sweden is also a shipping developed country, international trade and the shipping industry take up a considerable portion in its economy, Sweden is not quite competitive in the field of maritime arbitration services. The reason is the adoption of institutional arbitration in Sweden, and Sweden believes that maritime arbitration is not of much particularity compared with ordinary commercial arbitration. Compared with *ad hoc* arbitration, institutional arbitration are indeed unsatisfactory in terms of convenience and efficiency, so it is not surprising that few parties concerned will choose institutional arbitration. At the same time, it also reflects the importance of *ad hoc* arbitration for the development of an international arbitration hub, so it will be an inevitable trend to recognize *ad hoc* arbitration for the choice of the parties.

### 2.2.4 A rich reserve of international and professional talents is the cornerstone for the development of an international arbitration hub

In terms of talent reserve, London's advantage lies in the ecologicalization of industrial talents. For one thing, after the gathering of talents on shipping and legal practice, the arbitrators in London whose main duties are the conduct of maritime arbitration have been selected not limited to the brokers of the Baltic Exchange, but include professionals from various maritime-related industries. So the diversified sources of arbitrators guarantee that the most types of disputes can be well resolved, which has won a good reputation for maritime arbitration in London, and has attracted more market entities to submit legal disputes to arbitration in London. For another, abundant maritime arbitration cases provide a good opportunity to train high-level professionals for London, forming the effect of talent aggregation, and also stimulate the development of maritime education in London. This will continuously import excellent talents into the arbitration and legal services market for further support for London's status as an international maritime arbitration hub.

A profound arbitration culture is rooted in Hong Kong, which have made a large number of international lawyers, who have knowledge of international practices, understand China's national conditions, and have the capabilities to provide the parties concerned with legal services that meet their needs. This is an important advantage for Hong Kong to maintain its status as an international arbitration hub. At the same time, Hong Kong attaches great importance to the training and reserve of arbitration talents. The Chartered Institute of Arbitrators (East Asia Branch) ("CIArb") and the Hong Kong Institute of Arbitrators ("HKIArb"), established successively, aim to improve arbitrators' ability to practice through training; the HKIAC provides learning opportunities for the younger generation who wish to engage in arbitration through the promotion of the "HK45 Programme", the "Internship Program" and other programmes[27]. According to the latest HKIAC statistics, the HKIAC international cases accounted for 81.6%, 38.3% of the HKIAC cases do not involve any Hong Kong party, and 7.6% of such cases do not involve party from the Asia[28]. Such extremely high proportion of international cases shows the international community's recognition of Hong Kong's dispute resolution expertise.

Coincidentally, Sweden, which is well aware that talents are the cornerstones for the healthy development of arbitration services, also holds large-scale forum activities regularly. By way of combining degree education, block mode teaching and small-scale spare-time learning, Sweden establishes and improves a low-cost, multi-dimensional, customized long-term training and exchange mechanism for arbitration talents. Increasing talent reserve through training and exchange will not only help arbitration law practitioners keep improving their professional competence, but also further promote arbitration and facilitate the development of arbitration.

Regarding talent training in Singapore, more attention is paid to introducing outstanding foreign talents to promote the improvement of local talents. The legal services market in Singapore has been greatly opened up by the Legal Profession Act 2004 (as amended), under which, the only difference between non-Singapore lawyers and local lawyers in assisting parties in arbitration cases where the applicable law is Singapore law is that non-Singapore lawyers are not allowed to appear in court. However, where the applicable law is not Singapore law, there is no difference between them. Since 2012, Singapore has implemented a talent introduction policy with greater liberalization measures, which is intended to promote the close cooperation between local law firms and foreign law firms, and launched the Foreign Practitioner Examination ("FPE") for lawyers. Since the same year, Singapore has implemented tax exemption and other incentive policies for all arbitration proceedings conducted in Singapore and all legal practitioners engaged in international arbitration in Singapore. The cooperation between foreign superior talents and local talents not only promotes the participation of arbitration and the improvement of professionality in the local arbitration legal services industry, but also greatly meets the demands for international legal talents from Singapore's booming

27 https://www.hkiac.org/zh-hans/hk45, last access date: 20th March, 2022.

28 https://www.hkiac.org/about-us/statistics, last access date: 16th March, 2022.

commerce and economy[29], and adds vitality to the international development of arbitration in Singapore.

To sum up, an international arbitration hub will fall into its deserved market position under the inexorable rule of development: achieving a big goal from details, and goal achieved when all details done. The harmonious integration and interaction of comprehensive factors, such as economic, political, legal and cultural factors, is the internal driving force for the sustainable development of arbitration services, which should be supplemented by sound legal protection and appropriate judicial support, indispensable conditions for establishing an international arbitration hub.

# 3 The opportunity to establish an International Arbitration Hub with Chinese characteristics

## 3.1 The goal to establish an international arbitration hub with Chinese characteristics

Based upon the foregoing analysis, it's discovered that, currently, due to the far-reaching influence of the London arbitration market, most of the existing international arbitration hubs present characteristics that are highly similar to London. Their development path and advantageous factors as an international arbitration hub are like a mirror to China, reflecting the gap of China's existing conditions, but it also reflects China's unique advantages that are different from those of the international arbitration hub of common law background, who are not without criticism. Flexibility is a strength as well as a weakness of the *ad hoc* arbitration. London maritime arbitration is criticized mainly for its delays in rendering awards and the high cost of the arbitration. London arbitration is believed to be a time-consuming process. There is no specific time limitation provided for rending award, which the arbitral tribunal is requested to follow. Further, arbitral tribunal usually will not take a proactive role in the arbitral proceedings to urge the parties in order to save time, since they hope to provide sufficient opportunity to parities so as to express themselves fully. Also, there are also accusations that the arbitrators take on too much work preventing them from resolving disputes on time (Tassios, 2004). Arbitration is considered as a lucrative business, especially in London and Singapore. As well known, arbitrators often charge on the time engaged basis in *ad hoc* arbitration practice. It was said the costs of the London arbitration was five to ten time higher than in France; likewise, the legal expenses in Germany were on average three times lower than those incurred in London (Tassios, 2004). Sometimes, the costs even exceed the amount in dispute.

Chinese arbitration institutions are not operated for making profit, but to protect the legitimate rights and interests of the relevant parties so as to guarantee the healthy development of the socialist market economy. Based on this fundamental purpose, China designed many special practices in order to arbitrate the disputes in a time-saving and cost-effective way. "Combination of Arbitration and Conciliation" shall come first as it's always been deemed as an important contribution that China made to the world. Where the parties wish to conciliate, the arbitral tribunal may conciliate the dispute during the arbitral proceedings. Should the conciliation be successful, the parties may withdraw their claim, or request the arbitral tribunal to render an arbitral award or conciliation statement accordingly; while, if not, the arbitral proceedings shall be resumed. Additionally, time period has been provided for publishing award in arbitration terms. Taking CMAC's Arbitration Rules 2021 as example, the arbitral tribunal is requested to render the arbitral award within six months from the date on which the arbitral tribunal is constituted. Also, arbitration fees in China will be fixed as a percentage of the amount in dispute, meanwhile, should the dispute be conciliated by arbitral tribunal before the publishment of the final award, the arbitration fees will be refunded in percentage. In addition, China's arbitration institution will designate a case manager for each case, whose involvement not only assists the arbitral tribunal in the procedural administration of the case, but also saves the tribunal' time and have them focus on handling disputes and make the award timely and efficiently. Therefore, it becomes consensus in China's arbitration community that China shall establish an international arbitration hub with Chinese characteristics, rather than just copying others' successful experience.

## 3.2 The best opportunity for China to establish an International Arbitration Hub

Nowadays, China is faced with the best opportunity, which is also their competitiveness, to enhance its competitiveness of international arbitration services and pursue the goal of becoming an international arbitration hub with Chinese characteristics:

First, in terms of economy, China's shipping industry and foreign trade economy has made great progress in the course of the Chinese Government's promotion of the "Belt and Road Initiative" and its implementation of the maritime power strategy. According to *the Xinhua-Baltic International Shipping Center Development Index Report (2021)*, five of the top 10 cities where international shipping in terms of comprehensive strength are located in Asia, with China occupying three seats: Shanghai still ranks third worldwide, immediately followed by

29 https://www.contactsingapore.sg/cn/job-seekers/key-industries/legal-services/. Last access date: 3rd December, 2015.

Hong Kong, and it is particularly noteworthy that Ningbo Zhoushan, which has maintained the highest cargo throughput in the world for 12 consecutive years, ranks among the top 10 for the first time, becoming another "hardcore" power of China's port and shipping[30] Guangzhou and Qingdao also perform well, both entering the second echelon[31]. The trend of the "eastward move" of the world's economic centers and international shipping centers has become increasingly clear, creating a good economic support for China to establish an international arbitration hub.

Second, in terms of the legal environment and policies, the State Council has launched a number of incentive policies and measures to deploy the development of maritime arbitration and other modern shipping services as a key task[32], calling for "improving the arbitration institutions and enhancing the credibility of arbitration"[33] General Secretary Xi Jinping, at the 2nd meeting of the Central Committee of Comprehensive Law-Based Governance held on February 25th 2019, profoundly expounded the important conclusion that "the rule-of-law is the best business environment", and establishing international commercial and maritime arbitration hubs to enhance the international competitiveness of arbitration in China is an important measure to promote the development of rule-of-law and the creation of an international business environment.

Third, in terms of laws and regulations, China has initiated the amendment and improvement of *the Arbitration Law of the PRC* to provide legal support for the high-quality development of arbitration in China. It is also a good timing to conduct a comprehensive review and reflection on China's arbitration legislation. Judging from the draft released for comment, in such revision of *the Arbitration Law*, China has taken a solid step to fundamentally revise the old law and integrate with international advanced experience. The Supreme People's Court of the PRC has successively issued more than 30 judicial interpretations and normative documents related to arbitration, instructing and supervising the courts across China to perform the judicial review function of arbitration by law, and supporting the healthy and orderly development of arbitration.

Fourth, in terms of awareness of the industry, with the progress of China's judicial reform and the prosperity and development of the international arbitration market, it has become the consensus between the government and the industry to develop arbitration to contribute to China's judicial reform and to serve China's participation in global governance. The main arbitration institutions and industry entities in Beijing, Shanghai and Shenzhen actively explore and promote the establishment of a regional international arbitration hub adhering to the spirits of openness and inclusiveness; at the same time, the arbitration commissions in Shanghai, Dalian, Xiamen, Nanchang and other places have initiated the reform of the institution and mechanism of arbitration institutions to promote arbitration institutions to build the new institution and mechanism that meet the requirements for rule-of-law and marketization. In various places of China, there has been a good trend of making suggestions for the development of arbitration in China and the establishment of an international arbitration hub by exploring and exchanging with the thinking of diversity and mutual learning. At the same time, the development of arbitration in China has also attracted the attention of the international community. According to *the 2021 International Arbitration Survey*[34], "Besides Hong Kong and Singapore, much more respondents (than those in any previous survey) reported that they have ever designated Beijing, Shanghai or Shenzhen as the seat of arbitration."

Fifth, in terms of the talents training, with the prosperity and development of international shipping and trade economy, Chinese market entities actually participate in more international arbitration cases, and Chinese enterprises are the main clients of arbitration in London, Singapore and Hong Kong. Such participation, on one hand, helps Chinese enterprises reinforce their legal awareness and establish an image of complying with law through actively resolving economic disputes, and, on the other hand, contributes to the training of a number of arbitrators, lawyers and other professionals participating in international arbitration, which will provide a preliminary talent reserve for the establishment of an international arbitration hub in China. In addition, with the steady development of China's economy and the gradual increase of international exchanges, more legal talents studying abroad have returned to China, and more international legal practitioners who are attracted by the prosperous Chinese market have set up offices in Beijing, Shanghai, Shenzhen and other mainland cities, which has enhanced the exchanges between Chinese law firms and international law firms, and

30 https://www.cs.com.cn/xwzx/hg/202107/t20210712_6182913.html, last access date: 3rd February, 2022.

31 https://baijiahao.baidu.com/s?id=1672003476206344617&wfr=spider&for=pc, last access date: 14th December, 2021.

32 See: Several Opinions concerning Promoting the Healthy Development of the Maritime Industry issued by the State Council in August 2014.

33 http://news.xinhuanet.com/politics/2014-10/28/c_1113015330.htm, The Resolution of the CPC Central Committee on Several Major Issues concerning Comprehensive Law-Based Governance, published by Xinhuanet.com upon authorization, last access date: 8th July, 2017.

34 http://www.arbitration.qmul.ac.uk/research/2021-international-arbitration-survey/, "2021 International Arbitration Survey: Adapting Arbitration to a Changing World", published by Queen Mary University of London, in junction with its partners, last access date: 19th March, 2022.

further created conditions for the cultivation of China's international legal talents.

## 4. The direction for an International Arbitration Hub with Chinese characteristics

In the process of establishing a world-oriented international arbitration hub in China, in addition to building hardware facilities, it is more important to promote the building of soft power that affects the sustainable development of arbitration services, including the advancement of the legal system, the internationalization of arbitration procedures, the professionality of legal talents, the convenience of arbitration services, and most of all, the fairness of arbitration results, which is the fundamental value of arbitration services. According to the feedback from the survey, most views believe that the international recognition of arbitration laws and arbitration proceedings, building a group of professional arbitrators and improving the quality of arbitration services are the top three factors that affect the development of arbitration in China. Therefore, in order to improve the international competitiveness of arbitration services and achieve the goal of establishing an international arbitration hub, China need to pay more attention to the following aspects:

### 4.1 Guideline of establishing an International Arbitration Hub by prioritizing the development of maritime arbitration

Internationality is one of the core features of an international arbitration hub, it is also an inherent demand for the establishment of an international arbitration hub. Therefore, prioritizing the development of the industry more international can stimulate the establishment of an international arbitration hub. The cross-border maritime matters make maritime arbitration services obviously international, maritime arbitration has a wide range of international attributes in terms of service providers, consumer groups, and facts in dispute. Moreover, although the competitiveness of maritime arbitration in China is not top-ranked in the context of international competition, it has showed a good trajectory of development. The maritime arbitration service providers gather in Hong Kong, (which is already in the first echelon in the world), Beijing (the world-oriented national capital), and Shanghai (the world shipping and financial centers ranked third). According to the annual statistics of maritime arbitration cases in 2020, the CMAC accepted 111 cases, of which the foreign-related cases accounted for 35%[35], while maritime arbitration institutions in Shanghai accepted 342 cases with a total amount of subject matters in dispute of RMB 2.779 billion[36]. At the same time, as a maritime power, China's maritime legislation and judicature have internationality and advancedness. The Maritime Code of the PRC is being amended for further integration with international standards, which can not only better protect the development of shipping economy and contribute to the building of a maritime power, but also create legal system advantages for the further development of maritime arbitration services in China. Therefore, in order to establish an international arbitration hub, China should prioritize the development of maritime arbitration, and improving the level and competitiveness of maritime arbitration services in China is an important condition precedent to the healthy development of China's maritime industry and the establishment of an international arbitration hub in China.

### 4.2 The trend of the integration of Chinese arbitration services into the international arbitration community

Bearing in mind the current competitiveness status and development needs of arbitration services in China, it can be a shortcut to learn the advanced experience of the leading countries (regions or institutions) in the competitiveness of arbitration in the world. By comparative study of the elements and measures of the current international arbitration hubs that help develop arbitration services, it has been discovered that flexible and advanced arbitration procedures and arbitration legislation play an important role in improving the competitiveness of arbitration services. Therefore, China should not only open up their thinking in the revision of *the PRC Arbitration Law*, but also aim to realize the core values of arbitration in the design of specific arbitration procedures and arbitration rules by drawing lessons from the international practices that have been tested in practice. The development of China's Maritime Law is an excellent example. China enacted its first Maritime Law in 1993 by making a great deal of learning and reference to the worldwide advanced experience of maritime legislation and shipping practice. During the past almost 30 years, it is proved that China's Maritime Law has made great contribution to the rapid and high-level development of China' shipping economic and maritime judicial practice since its enforcement. The Draft Amendments to the PRC Arbitration Law released on 30 July 2021 for public consultation, promulgated a wide range of groundbreaking changes to China's existing arbitration legislation and would likely

35 http://www.cmac.org.cn/index.php?id=75, last access date:16th March, 2022.

36 https://finance.eastmoney.com/a/202201102241737069.html, last access date:12th January, 2022.

integrate Chinese arbitration services into the international arbitration community.

Furthermore, China should pay special attention to the balance between "bring-in" and "go-global". Although learning and borrowing may contribute to internationalization, China should pay more attention to adhering to, optimizing, promoting and carrying forward the arbitration institutions or arbitration procedures with Chinese characteristics, and persist in the combination of "bring-in" and "go-global" under the background of the "Belt and Road Initiative". While learning from advanced foreign experiences, China should maintain and develop the characteristics and advantages of Chinese arbitration services, and focus on cultivating the new advantage to participate in and lead the formulation of international economic and trade rules and standards. Just like using China's judicial mediation experience to help the development of mediation mechanisms in the international community, China should contribute Chinese wisdom to the development of diversified dispute resolution mechanisms (including arbitration) in the international community, which is a positive path to raise their voice and better integrate into the international arbitration community.

## 4.3 Conceptual innovation in the revision of the PRC Arbitration Law

Revising *The PRC Arbitration Law* should focus on resolving the issue of how to proceed with the arbitration procedures in the absence of any provisions of the arbitration rules or lack of the mutual agreement between the parties concerned. Matters that could be agreed upon by the parties concerned, or be ascertained by the arbitration rules or determined by the arbitral tribunal upon authorization should not be written down into such law elaborately. As for the issues on arbitration procedures (excluding *ad hoc* arbitration), such law should mainly provide for principled issues. Therefore, the revision of *the PRC Arbitration Law* should focus on the review of the validity of an arbitration agreement, the composition of the arbitral tribunal and the procedural issues prior to such composition, and the relationship between arbitration and judicature. In terms of legislative practice, even if the amendments to such law are excessively elaborate and detailed, they will still not be exhaustive, on the contrary, such amendments will lack depth for all-inclusiveness or have omissions inevitably. For example, the draft for comments thereof stipulates that an arbitral tribunal may be composed of one arbitrator or three arbitrators, but it does not specify how many arbitrators the arbitral tribunal shall be composed of where there is no agreement in this regard in the arbitration agreement. This shall be regulated by law. On this issue, both *the English Arbitration Act 1996* and *the Hong Kong Arbitration Ordinance* have express provisions, that is, the former stipulates that the default arbitral tribunal composed of the sole arbitrator shall be set up, while the latter stipulates that the designated arbitration institution (namely the HKIAC) shall determine the composition of the arbitral tribunal at the request of the parties concerned., upon initiation of the arbitration proceedings, the lack of such express legal provisions on the composition of the arbitral tribunal in *the PRC Arbitration Law* will cost the parties a lot of time and costs to resolve this issue, which is not conducive to the realization of arbitration values of convenience and cost-effectiveness.

## 4.4 A fundamental countermeasure: Cultivation of international professionals for the arbitration industry

First of all, the Chinese arbitration industry should cooperate with colleges and universities to establish a specialized training mode for arbitration talents, and comprehensively train international and professional arbitration practitioners who master common law thinking and understand international business rules, including arbitrators, lawyers and legal counsels with international vision and professional knowledge, as well as necessary participants in arbitration services, such as arbitration secretaries, court stenographers and other supporting staff. Arbitration colleges should be established in universities, which are intended to provide all-round training of arbitration practitioners from their student stage by integrating education on arbitration theories and practice, education on the science of law (including common law), and training of professional skills (including foreign language). Such training mode will enable students to be faster and better integrated into the practice of domestic or international arbitration in the future. At the same time, due to the foreign-related characteristics of international arbitration services, such specialized training mode can not only focus on enhancing students' professional knowledge reserve, but also pay more attention to teaching students to treat and analyze problems with international vision and way of thinking, so that students can reach deeper integration into the international market from the cultural level.

As for the current cultivation of talents for the international arbitration hub, China should open up China's arbitration services market to foreign arbitration institutions for the inheritance between two generations of talents. From one aspect, China should attract and encourage more high-quality international arbitration institutions to settle in China, allowing and encouraging them to conduct business in China, and high-quality arbitration human resources (including foreign arbitrators, lawyers, and expert witnesses) will follow, which will contribute to the cultivation of Chinese arbitration legal talents and further improve Chinese international arbitration

services with high-quality[37]. From another aspect, top arbitrators from all over the world should be able to join in *the Register of Chinese Arbitration Institutions*. As one of the core elements of arbitration, arbitrators have an important impact on the competitiveness of arbitration. Therefore, the number and distribution of arbitrators will have a significant impact on the competitiveness of arbitration services in a certain country (region or institution), in terms of the capability to arbitrate a case and the intensity of publicity. For example, the LMAA has been attracting outstanding professionals from all over the world to serve as arbitrators in the LMAA by setting up supporting members; the ICC International Court of Arbitration does not have a register of arbitrators, and when it is requested to appoint arbitrators, it will invite the committees of chambers of commerce in more than 70 countries around the world to recommend arbitrators. Having a team of arbitrators with diversified cultural backgrounds will offer the parties more opportunities to select arbitrators and enhance their confidence in arbitration; moreover, it will expand the influence of arbitration in the corresponding countries and regions, which is more conducive to the expansion of business scope.

### 4.5 Conception of a mainland and Hong Kong-based Asia-Pacific international legal services and dispute resolution hub

Currently, the major international arbitration hubs in the world are in common law jurisdictions. Hong Kong has 150 years of common law experience and tradition, as well as a considerable number of common law talents. Moreover, Hong Kong's achievements in international arbitration are obvious to all, and Hong Kong ranks third in the global most popular seats of arbitration, and is the fourth seat of arbitration designated by the BIMCO following London, New York and Singapore[38]. As one of the long-standing shipping centers in Asia, Hong Kong's maritime arbitration industry also has extensive influence in the international community. The Department of Justice of Hong Kong has always made it a top priority to promote Hong Kong as an Asia-Pacific international legal services and dispute resolution hub. The Central Government of China has also strongly supported the development of arbitration services (including maritime arbitration) in Hong Kong by previously issuing *the Arrangement concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitration Proceedings by the Courts of the Mainland and the Hong Kong Special Administrative Region*. They support the development of arbitration in both the Mainland and Hong Kong by mutual assistance in Court-ordered interim measures. Moreover, the Outline of the 14th Five-Year Plan (2021-2025) for National Economic and Social Development and Vision 2035 of the People's Republic of China includes the support for establishing a Hong Kong-based Asia-Pacific international legal services and dispute resolution hub in the outlined plan and its goal. Furthermore, China and the Asian-African Legal Consultative Organization will jointly set up a regional arbitration hub in Hong Kong to provide more convenient and efficient dispute settlement services for Asian and African countries[39]. In terms of the cultivation of legal talents, *the Development Plan for the City Agglomeration in the Guangdong-Hong Kong-Macau Greater Bay Area* put forward by the Central Government of China has formally opened the prelude to the exchange and cooperation of education on the science of law in the Greater Bay Area and the improvement of the training of legal professionals. In fact, under such Development Plan, the Mainland, jointly with Hong Kong and Macau, promote the creation of an international and modern legal environment and the training of legal talents with Guangdong-Hong Kong-Macau Greater Bay Area as the testing ground. By way of sharing their resources and exploiting their advantages, they collaborate to make efforts for the enhancement of China's capabilities of and influence in resolving international disputes (including providing international arbitration services) in order to jointly establish an "Asia-Pacific International Legal Services and Dispute Resolution Hub", also as a regional international arbitration hub with Chinese characteristics and reflecting advantages from both the Civil Law System and the Common Law System.

## 5. Conclusion

China's modern commercial arbitration and maritime arbitration has gone through a history of more than 60 years since the establishment of the first arbitration institution. Arbitration, especially international arbitration, is still a "sunrise industry" in China. Nevertheless, China's arbitration has made great progress since the implementation of *the*

37 Mr. Li Hu gave a speech at the high-end seminar on 'Making Every Effort to Create a First-class International Dispute Settlement Institution and Contributing to the Establishment of an International Arbitration Hun in Beijing' on 16 December , 2021: "Four elements and five collaborative measures help establish a global-oriented international arbitration hub in Beijing."

38 https://www.sohu.com/a/423040992_173888, last access date: 14th December, 2021.

39 http://www.takungpao.com/news/232109/2021/1130/660278.html, last access date: 24th January, 2022.

*Arbitration Law of the PRC* in 1995. It is the consensus and direction of the Chinese government and the industry to vigorously develop arbitration, improve arbitration credibility and international competitiveness, and build a one-stop diversified international dispute settlement center focusing on arbitration. As far as China is concerned, the achievement of the goal of establishing an international arbitration hub in China depends on the multiple contributions of a series of soft-power resources, such as laws, rules, and talents, which are nourished by long-term cultural heritage, accumulated in judicial practice, and supported by excellent legal environment and business environment. However, nowadays, in China, the lack of the cultural soil of arbitration in the society, the shortage of arbitration talents, and the ill-connection between Chinese arbitration legislation and practice and those of the international community all lead to the need to improve the credibility of Chinese arbitration. In order to support the establishment and formation of an international arbitration hub, China should make best efforts in both soft-power resources and hardware facilities, face up to their disadvantages and make an institutional reform; China should make the best of their advantages, and cultivate competitive advantages with Chinese characteristics; finally, China must make preparations for the unremitting efforts by several generations, and strive to root the concept of resolving disputes through arbitration in China's social and cultural genes.

## Author contributions

All authors contributed to the article and approved the submitted version.

## Funding

This work is supported by the National Social Science Funding Project of China (Grant No.17ZDA145) and the National Social Science Funding Project of China (Grant No. 22AZD108).

## Conflict of interest

The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

## Publisher's note



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