CHINA DISPUTE RESOLUTION

NEWS LETTER



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NEWS ALERT

1. Supreme People's Court Issues Interpretation on Interest Calculation for Overdue Payments in Foreign and HK/Macao/Taiwan Currencies

On February 12, 2025, the Supreme People's Court (SPC) issued a new interpretation on the calculation of overdue payment interest in foreign currencies, as well as those of Hong Kong/Macao/Taiwan. This interpretation is aimed at resolving inconsistent judicial practice whereby different courts applied different standards in such calculations, which engendered uncertainty in commercial disputes. The new interpretation provides for a unified approach to ensure consistency in handling overdue payment interest in cross-border transactions.

Under the new interpretation, if the parties have agreed on an overdue interest rate, the agreed rate will be applied – provided it does not exceed the maximum limit set by the applicable law. Any part of the agreed interest rate that exceeds the legal limit will not be enforceable, but the portion within the legal limit will remain valid.

If no agreement exists, or the agreed terms are unclear, overdue interest will be calculated based on the following benchmark rates:

Currency	Benchmark Rate
A. Interest Calculation for Other Foreign Currencies	
U.S. Dollar (USD)	Based on the average loan interest rates for different maturities (less than 3 months, 3-6 months, 6-12 months, over 1 year) as published in the appendix of the China Monetary Policy Implementation Report by the People's Bank of China.
Euro (EUR)	EURIBOR (Euro Interbank Offered Rate)
British Pound (GBP)	SONIA (Sterling Overnight Index Average)
Japanese Yen (JPY)	TONA (Tokyo Overnight Average Rate)
Australian Dollar (AUD)	BBSW (Bank Bill Swap Rate)
Swiss Franc (CHF)	SARON (Swiss Average Rate Overnight)
Canadian Dollar (CAD)	CORRA (Canadian Overnight Repo Rate Average)
New Zealand Dollar (NZD)	BKBM (Bank Bill Benchmark Rate)
Singapore Dollar (SGD)	SORA (Singapore Overnight Rate Average)
B. Interest Calculation for HK/Macao/Taiwan Currencies	
Hong Kong Dollar (HKD)	HIBOR (Hong Kong Interbank Offered Rate)

Macao Pataca (MOP)	Macao Comprehensive Interest Rate
New Taiwan Dollar (TWD)	Taiwan Basic Lending Rate

2. Supreme People's Court Releases Landmark Cases on Foreign Investment Protection

On January 2, 2025, the Supreme People's Court (SPC) released five landmark cases to commemorate the fifth anniversary of the Foreign Investment Law, emphasizing China's commitment to protecting foreign investors' rights and fostering a fair business environment.

The following table summarizes the key categories and main points of each case:

Category	Main Content
Director Misconduct	The court emphasized that foreign investors in China depend on executives for management, making their due diligence and loyalty vital. In determining a general manager's liability for self-dealing, the court, under the Company Law, extended the scope of the prohibition on self-dealing to cover transactions involving executives' close relatives and controlled companies
Shareholder Information Rights	This Wuxi case involved a shareholder's right to information. The court applied the laws of different jurisdictions to different legal issues, as the facts required. This case underscores the Chinese Courts' commitment to applying foreign laws fairly, ensuring the protection of foreign investors' rights.
Corporate Dissolution	A Beijing court, at a German company's request, dissolved a joint venture due to deadlock. The Court emphasized that judicial dissolution is important for protecting shareholder interests when internal governance fails. At the same time, the court provided guidance to the parties, underscoring the importance of considering alternative cooperation models to achieve win-win outcomes.
Return of Business Licenses	In this case, the original legal representatives of a company refused to comply with shareholder and board resolutions and misused their control over company documents, thereby harming the business. The court applied preservation measures under the Civil Procedure Law and ruled that the revoked business license had to be returned to the foreign investor.
Related-Party Transactions	This Shandong case involved a dispute over related-party transactions. The court considered the joint venture's operational status and the parties' willingness to continue cooperation. Through mediation, the court successfully facilitated a settlement, resolving the dispute with minimal cost and enabling the joint venture to resume normal operations.

These decisions underscore China's commitment to providing a stable legal framework for foreign investment and ensuring equitable treatment for foreign enterprises.

3. The First Anti-Foreign Sanctions Case by China Company Pursuant to Article 12 of AFSL

In 2024, the Nanjing Maritime Court heard a case in which a marine engineering company had filed a lawsuit against a foreign equipment company. This case, later cited in the Supreme People's Court's Report during the Two Sessions, was the first to apply Article 12 of "the Anti-Foreign Sanctions Law of the People's Republic of China" ("AFSL").

In the middle of 2024, the foreign equipment company had refused to pay the outstanding US$11.86 million to the marine engineering company, and terminated negotiations after a third country imposed sanctions on the marine engineering company.

The marine engineering company applied to the Nanjing Maritime Court for pre-litigation attachment of the subject vessel, and claimed compensation under Article 12 of AFSL. To lift the attachment, the equipment company applied for a payment license from the jurisdiction which had imposed the relevant sanctions, and thereafter submitted a counter-guarantee of about RMB 99 million.

After the court elucidated the legal implications of foreign sanctions under Chinese law, the parties reached a mediation agreement within less than two months. Subsequently, the court issued a civil mediation document, and the settlement funds were transferred through enforcement procedures.

4. First Case under the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region: Guangdong Court Recognized and Enforced a Hong Kong Judgment

The *Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region* (the "New Arrangement") took effect both in Mainland China and HKSAR on January 29, 2024. Recently, the Foshan Intermediate People's Court applied the New Arrangement to recognize and enforce a Hong Kong judgment. This marks the first application of the New Arrangement in Guangdong Province.

The plaintiff, a Mainland resident, filed a lawsuit with the HKSAR High Court over a contractual dispute with a Mainland China company and a Hong Kong company, demanding payment of overdue rent, investment funds, and interest. On July 26, 2024, the High Court of HKSAR ruled in favor of the plaintiff. As the defendants held assets in Foshan, Guangdong, the plaintiff applied to the Foshan Intermediate People's Court on October 11, 2024 for recognition and enforcement of the HKSAR judgment. The Foshan court ultimately granted recognition and enforcement of the Hong Kong judgment on the grounds that the judgment in question:

- Constituted an effective judgement issued after the New Arrangement took effect;
- Complied with all conditions for recognition and enforcement under the New Arrangement; and
- Did not contravene the basic principles of the law or public interests of Mainland China.

5. First Cases in 2025: U.S. Courts Recognized CIETAC Arbitral Awards

On January 30, 2025, two arbitral awards issued under the auspices of the China International Economic and Trade Arbitration Commission (CIETAC) were recognized by the U.S. District Court for the Central District of California and the U.S. District Court for the Southern District of New York. This marked the first time U.S. courts granted recognition of CIETAC awards in 2025.

In both of these cases, the U.S. courts cited Section 207 of the U.S. Federal Arbitration Act, emphasizing that foreign arbitral awards shall be recognized unless grounds for refusal under the New York Convention apply. No such grounds were made out on the facts of each case.

6. SHIAC Award on VAM Dispute Recognized by the Court of Taiwan Region, China

On January 2, 2025, the New Taipei District Court of Taiwan Region, China (the "Court") issued its first civil ruling recognizing a Mainland arbitration award for the year (Civil Ruling No. 1, 113th Year Lu Zhong Xu Zi). The Court recognized and enforced Case No. 0452 of 2021, which had been decided under the rules of the Shanghai International Economic and Trade Arbitration Commission (SHIAC). The case arose from a dispute regarding investment repurchase and equity agreements, which in turn entailed close consideration of a Valuation Adjustment Mechanism (VAM) clause. After Company A had increased its capital holdings in Company B, disagreements arose over (a) repurchase obligations; and (b) cost allocations arising out of Company B's failure to list publicly. Company A then sought arbitration under the SHIAC Rules and obtained a final award. However, the founder of Company B sought to resist enforcement of the award, claiming that the VAM clause breached the public order and good morals of Taiwan Region, China. After review, the Court recognized and enforced the award under the "*Act Governing Relations between the People of the Taiwan Area and the Mainland Area*". As the first case decided by the Court in 2025, this case holds landmark significance in the cross-strait arbitration recognition process.

7. CIETAC Released "Procedures for Administering Cases Under the UNCITRAL Arbitration Rules"

On March 1, 2025, the China International Economic and Trade Arbitration Commission (CIETAC) will officially implement the "*Procedures for Administering Cases Under the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules*" (the "Procedures"). This initiative allows parties to choose *the UNCITRAL Arbitration Rules* while utilizing CIETAC's institutional services. The Procedures consist of seven chapters, including "*General Provisions*", "*Composition of the Arbitral Tribunal*", "*Arbitral Proceedings*", "*Awards*", "*Expedited Arbitration*", "*Costs Administration*", and "*Supplementary Provisions*", comprising a total of 25 articles. Under the Procedures, CIETAC will provide services such as designating authority functions, facilitating procedural management, administering arbitration costs, and reviewing arbitral awards. The objective of the Procedures is, in line with CIETAC's broader objectives, to deliver fair and efficient dispute resolution mechanisms for all parties.

8. CIETAC Released 2024 Work Report

On January 21, 2025, the China International Economic and Trade Arbitration Commission (CIETAC) released its 2024 Annual Work Report. In 2024, the CIETAC Commission accepted 6,013 cases, with a total disputed amount of RMB 188.96 billion. Of these, 758 cases involved

foreign elements, showing a 53.75% year-on-year growth. The disputed amount in these cases which involved foreign elements reached RMB 81.125 billion. All asset preservation applications filed through CIETAC Hong Kong were enforced by Chinese courts, with an average interim relief quantum of RMB 29.49 million per case. Moreover, CIETAC's digital transformation led to 2,998 online case filings, a 66.2% increase from the previous year, and ensuring more efficient services.

Recognition and Enforcement of Foreign Judgments in China

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Abstract

With cross-border disputes on the rise, the recognition and enforcement of foreign court judgments in China has become a matter of increasing importance. This article provides an overview of the legal framework and the applicable process for the recognition and enforcement of foreign court judgements in China. This covers, inter alia, the application and case filing stage, the Chinese courts' examination of the application and their considerations in granting or refusing recognition and enforcement, as well as the ultimate ruling on the application and enforcement thereafter.

I. Introduction

Effective cross-border enforcement turns on the availability of judicial decisions to ensure the realisation and practical value of decisions even beyond where they are issued. In recent years, Chinese courts have demonstrated a growing openness in the recognition and enforcement of foreign court judgements. In 2024, 319 foreign judgments (excluding divorce cases) were recognised and enforced on the basis of the principle of reciprocity and bilateral treaties, an increase of 11.2 percent over the previous year.[1]

As for the legal framework in terms of international conventions and treaties, China has not yet ratified any international conventions on the recognition and enforcement of foreign judgments, and China has entered into bilateral treaties on civil (and commercial) judicial assistance with 37 countries. Among these 37 treaties, as analysed and calculated by the authors, 35 of them provide for contents on recognition and enforcement of judgments rendered by the courts of the contracting states. As seen from the contracting states, there has been no treaty nor provision in the relevant judicial assistance treaties (if any) between China and the United States, Singapore, and most of the EU countries on the recognition and enforcement of civil and commercial court judgments.[2] At the domestic level, the general principles on Chinese courts' recognition and enforcement of foreign court judgements are set out in the Chinese Civil Procedure Law ("CPL")[3], with more detailed rules stipulated in relevant interpretations of law by the Supreme People's Court ("SPC"), as well as other relevant provisions and judicial documents. Some Symposium Minutes for the trial work of national courts issued by the SPC, notably, the Minutes of the National Symposium on Foreign-related Commercial and Maritime Trial Work of Courts ("Minutes"), though not legally binding in a legislative nature, serve as important authoritative guidance for courts in mainland China in considering these topics.

II. This article provides an overview of the procedures for the recognition and enforcement of foreign court judgements in China, including (a) the applicants' application to Chinese courts which starts the procedures and the case filing stage, (b) Chinese courts'

considerations in granting or refusing recognition and enforcement, and (c) the decision and enforcement stages.

III. Application and case filing stage

Under Article 298 of the CPL, a party may directly apply to the intermediate people's court having jurisdiction for recognition and enforcement, or the foreign court may request recognition and enforcement by a people's court in accordance with applicable treaties or under the principle of reciprocity.[4]

The period of limitation relevant to applying for such recognition and enforcement is two years. This period begins from the last day of the period for performance stipulated in the foreign judgment, or from the effective date of the judgment if no such period for performance is specified. Foreign court judgements will be enforced after they are recognised by Chinese courts. If the party only applies for recognition without applying for enforcement at the same time, the Chinese courts will only review whether the judgment should be recognised and make a ruling accordingly.[5] In those circumstances, the period of limitation for any future enforcement application is calculated from the date when the recognition ruling rendered by the Chinese court takes effect.[6]

An application for recognition and / or enforcement is generally submitted to the intermediate people's court at the respondent's domicile or the location of its properties. In circumstances where the respondent does not have a domicile and its properties are not within the territory of China, the case may be governed by the intermediate people's court at the domicile of the applicant.[7]

To apply for recognition and enforcement, the applicant must submit a written application to the Chinese court, accompanied by the original foreign court judgment or a certified copy thereof, proof that the judgment has come into legal effect, and proof that the foreign court has legally summoned the absent party where the judgment in question is a default judgement. The foreign court judgement and other documents written in a foreign language must be accompanied by Chinese translations, which themselves need to be affixed with the seal of a translation agency. All documents prepared outside Chinese will also need to be authenticated and notarized.[8] The applicant may also apply for property preservation to freeze or attach the respondent's properties in recognition and enforcement proceedings; this will be subject to the Chinese court's decision and enforcement in accordance with the CPL and relevant judicial interpretations.[9]

After the applicant files its application for recognition and enforcement, the Chinese court will conduct a prima facie review as to whether the application complies with the conditions for case filing, generally including whether the applicant has the requisite standing for such a procedure, whether the court has jurisdiction over the application, whether the application is made within the period of limitation, and whether the foreign judgement has become legally effective and enforceable, etc. The Chinese court shall then issue its ruling on whether to accept the application at the filing stage, and an applicant who disagrees with the ruling may file an appeal. Should a Chinese court decline or reject the application, where the applicant applies again and the subsequent application satisfies the requisite conditions, the Chinese court will accept the application.[10]

After the Chinese court accepts the case, it will serve a copy of the written application for recognition and enforcement on the respondent, and the respondent shall submit its position within 15 days from

the receipt of the copy of the written application (30 days if the respondent does not have a domicile within the territory of China). Failure by the respondent to submit its position within such a period will not affect the examination by the Chinese court.[11] Within the same period as mentioned before, the respondent may raise any jurisdictional objections it might have if it wishes to challenge the Chinese court's jurisdiction to handle the application for recognition and enforcement.[12]

IV. Examination and consideration by the Chinese court

a. The "judgement" to be recognised and enforced

The CPL stipulates that a foreign court decision to be applied for recognised and enforced in China shall be "a judgment or ruling made by a foreign court which has come into legal effect".[13] As further explained by the Minutes, such a foreign court judgement or ruling (for the purpose of this article, collectively referred to as a "judgement") shall include judgments, rulings, decisions, orders and other legal documents issued by foreign courts on substantive disputes of civil and commercial cases, as well as legal documents made in respect of civil damages in criminal cases. Conversely, preservation rulings and other procedural legal documents issued by foreign courts are expressively excluded[14], and a judgment pending appeal or in the process of appeal shall not fall under the scope of a judgment or ruling that "has come into legal effect" under the CPL[15].

If, upon review, the Chinese court cannot confirm the authenticity of the foreign court judgement, or such a judgment or ruling has not been legally effective, the Chinese court shall reject the application for recognition and enforcement. After the application is rejected, if the applicant applies anew and the criteria for acceptance are met, the Chinese court shall accept the application.[16]

b. Factors considered by the Chinese court in deciding whether to grant or reject recognition and enforcement

For cases of recognition and enforcement of judgments rendered by foreign courts, the Chinese court will form a collegiate bench to review.[17]

As a general principle, upon application by the applicant or the foreign court's request on recognition and enforcement of a foreign court judgement, where a Chinese court concludes, upon examination pursuant to the international treaty concluded or acceded to China or under the principle of reciprocity, that the foreign court judgement does not violate basic principles of Chinese law and damage the sovereignty, security or public interest of China, the Chinese court will typically rule to recognise the legal force of the foreign judgment. In cases where enforcement is needed, the Chinese court will, in the circumstances set out in the preceding sentence, issue an enforcement order to enforce the relevant foreign judgment.[18]

In terms of international treaties, taking as an typical example the *Treaty between the People's Republic of China and the Islamic Republic of Iran on Judicial Assistance in Civil and Commercial Matters*, this Treaty stipulates that the scope of judicial assistance includes "*recognition and enforcement of court decisions*", and it provides for, inter alia, the definition of such "court decisions", application for recognition and enforcement, grounds for refusal, the procedures and the legal effects of such recognition and enforcement. Except that in the Treaty "judgment obtained by fraud" is not listed as a ground for refusing recognition and enforcement, its provisions are largely consistent with those in the CPL regarding the recognition and enforcement of foreign judgments.[19]

For judgements from countries with which China does not have a valid international treaty on recognition and enforcement, as mentioned above, the principle of reciprocity will be examined as a basis for recognition and enforcement. In recent years, China's law and judicial practice has been more open to the application of reciprocity, such that the principle includes the standard of *de jure reciprocity* (that a reciprocal relationship can be found if there is a possibility that a Chinese court judgment "can" be recognised and enforced under the law of that foreign country), in addition to the long standing application of standalone *de facto* reciprocity (which required the foreign country whose court issued the relevant judgement to have a precedent of recognising and enforcing judgements issued by the Chinese courts)[20]. The Minutes issued on 31 December 2021 embody the essence of *de jure* reciprocity,[21] and after the publication of the Minutes, the Shanghai Maritime Court, in *Spar Shipping v Grand China (A Case of Applying for Recognition of Foreign Court Judgement)*, applied the reciprocity principle (*inter alia*, the *de jure* reciprocity standard) to recognise the foreign court judgement.[22] As noted in the Minutes, Chinese courts examine and determine whether there is a reciprocal relationship on a case-by-case basis.[23]

The CPL also expressively provides for five circumstances in which a foreign court judgment will not be recognised and enforced, which are summarised as below.

(1) Jurisdiction: the foreign court has no jurisdiction over the case, which includes circumstances where (i) the foreign court has no jurisdiction over the case pursuant to its laws, or it has jurisdiction over the case pursuant to its laws but has no appropriate connection with the dispute involved in the case; (ii) the provisions of the CPL on exclusive jurisdiction are violated; or (iii) the agreement on exclusive choice of court for jurisdiction by the parties is violated[24];

(2) Due process: the respondent has not been legitimately summoned, or the respondent has been legitimately summoned but has not been given a reasonable opportunity to present its case, or the party without litigation capacity has not been appropriately represented;

(3) Fraud: the judgment or ruling was obtained by fraud;

(4) *Res judicata*: a Chinese court has made a judgment or ruling on the same dispute, or has recognised the judgment made by a court of a third country for the same dispute; or

(5) Violation: the judgement violates the basic principles of Chinese law or harms the national sovereignty, security and public interest.[25]

Although punitive damages are widely seen in American jurisdictions in cases concerning tort, contract, and maritime law, etc., they contravene the basic principles of Chinese Law under which civil and commercial damages are awarded for the purpose of compensating damage which has been suffered. Article 45 of the Minutes also provides clarification on the approach of Chinese Courts to the recognition of punitive damages in foreign judgments: "*[Court decisions awarding punitive damages] Where a decision of a foreign court awards damages in conspicuous excess of actual loss, the people's court may refuse to recognise and enforce the excess*". This provision also explains that Chinese courts may partially recognise and enforce civil and commercial judgments rendered by foreign courts, and may refuse to recognise and enforce only the punitive damages award (or any other offending provision). For example, in three cases where recognition and enforcement of US judgements awarding, *inter alia*, punitive damages, the Guangzhou Intermediate Court unanimously

determined that "*the portion of punitive damages that is in manifest excess of actual losses shall not be recognised and enforced*", and ruled to "*partially recognise and enforce the civil judgment*" rendered by the US court, refusing to recognise and enforce the punitive damages judgement parts.[26]

V. Rulings and enforcement

a. Court filing and reporting mechanism of decisions

In cases in which the principle of reciprocity is relied on as a basis for recognition and enforcement, before rendering a ruling, the Chinese court should submit its proposed handling opinion to the competent high court in its jurisdiction for review. If the high court agrees with the proposed approach, it should report its review opinions to the SPC for review. A ruling may be made only after the SPC has rendered its reply. Where a Chinese court at any level conclude a case involving an application for the recognition and enforcement of a judgment rendered by a foreign court, the Chinese court should file the case level by level to the SPC for record within 15 days after rendering the ruling. The filing materials shall include the written application submitted by the applicant, the foreign court judgment and its Chinese translation, and the Chinese court's ruling.[27]

b. Remedies Available for parties

A Chinese court's ruling — whether to recognize and enforce or to refuse recognition and enforcement of a foreign court judgment—becomes legally effective upon service.[28] A party who disagrees with the ruling on recognition and enforcement or non-recognition and enforcement may apply to a higher-level people's court for reconsideration within 10 days from the date of service of the ruling.[29]

c. Enforcement

As mentioned before, a foreign court judgement shall be recognised before being enforced by the relevant Chinese court. After the Chinese court grants recognition, enforcement shall be carried out in accordance with the CPL.[30]

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1 *Report on the Work of the Supreme People's Court - Delivered at the Third Session of the 14th National People's Congress*, 8 March 2025，at https://mp.weixin.qq.com/s/SQlPs9h8uI1xmFlwpA2tfA.

2 The Treaty Database of the People's Republic of China, see http://treaty.mfa.gov.cn/Treaty/web/list.jsp?nPageIndex_=1&keywords=%E5%85%B3%E4%BA%8E%E6%B0%91%E4%BA%8B&chnltype_c=all, last accessed on 20 April 2025.

3 Unless otherwise specified, all references to the Civil Procedure Law (the "CPL") (without indicating a specific version) in this article are to the *Civil Procedure Law of the People's Republic of China (2023 Amendment)*.

4 Article 298 of the CPL: "*Where an effective judgment or ruling rendered by a foreign court requires recognition and enforcement by a people's court, a party may directly apply to the intermediate people's court having jurisdiction for recognition and enforcement or the foreign court may request recognition and enforcement by a people's court in accordance with the provisions of an international treaty concluded or acceded to by the foreign country and the People's Republic of China or under the principle of reciprocity*".

5 Article 544 (paragraph 2) of *the Interpretation of the Supreme People's Court on the Application of the Civil*

Procedure Law of the People's Republic of China: "*Where the party only applies for recognition without applying for enforcement at the same time, the people's court shall only review whether the judgment, ruling or arbitral award shall be recognized and make a ruling accordingly.*"

6 Article 250 of the CPL (Article 246 of the CPL 2021 Amendment version): "*The time frame for application for enforcement shall be two years. The provisions of the applicable laws on suspension and termination of limitation of action shall apply to suspension and termination of limitation period for application for enforcement.*

The period stipulated in the preceding paragraph shall commence from the last day of the performance period stipulated in the legal document; where the legal document stipulates performance in phases, the period shall commence from the date of expiration of the time limit for the last performance; where the legal document does not stipulate the performance period, the period shall commence from the effective date of the legal document."

Article 545 of *the Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China*: "*The provisions of Article 246 of the Civil Procedure Law shall apply to the time limit for the party to apply for recognition and enforcement of legally effective judgments or rulings rendered by foreign courts or foreign arbitral awards.*

Where the party only applies for recognition without applying for enforcement at the same time, the time limit for the enforcement application shall be re-counted from the date when the ruling rendered by the people's court on the recognition application takes effect".

7 Article 34 of *the Minutes*: "*[Circumstances under the Jurisdiction of the Court at the Domicile of the Applicant] Where an applicant applies for the recognition of a judgment or ruling rendered by a foreign court, but the respondent does not have a domicile and its properties are not within the territory of China, the case may be governed by the intermediate people's court at the domicile of the applicant*".

8 Article 35 of *the Minutes*: "*[Application Materials] An applicant applying for the recognition and enforcement of a judgment or ruling rendered by a foreign court shall submit a written application, with the following documents attached: (1) The original judgment or a certified copy thereof; (2) Document proving that the judgment has come into legal effect; and (3) Document proving that the foreign court has legally summoned the absent party if the judgment is made by default.*

Where the judgment or ruling has explained the circumstances prescribed in Item (2) or (3) of the preceding paragraph, other supporting documents are not required to be submitted.

Where the judgment and other documents submitted by the applicant are written in a foreign language, a Chinese translation affixed with the seal of the translation agency shall be attached.

If the documents submitted by an applicant are formed outside the territory of China, the applicant shall go through the notarization and authentication formalities, or go through the certification formalities specified in the relevant international treaties concluded between the People's Republic of China and the country."

9 Article 39 of *the Minutes*: "*[Preservation Measures] Where a litigant applies to a people's court for recognition and enforcement of a judgment or ruling rendered by a foreign court, and the people's court accepts the application, if the litigant applies for property preservation, the people's court may implement with reference to the provisions of the Civil Procedural Law and the relevant judicial interpretations. The applicant shall provide security, failing which, the application shall be rejected by ruling.*"

10 Article 40 of *the Minutes*: "*[Case Filing Examination] Where an applicant's application does not meet the conditions for case filing, a people's court shall rule not to accept the application, with the reasons therefor stated. If the application has been accepted, the court shall rule to reject the application. The litigant who disagrees with the ruling may file an appeal. After the people's court rules not to accept or rejects the application,*

where the applicant re-applies and the application satisfies the acceptance criteria, the people's court shall accept the application."

11 Article 546 (paragraph 2) of *the Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China*: "*The people's court shall serve an application in writing on the respondent. The respondent may state his opinions.*"

Article 37 (paragraph 2) of the *Minutes: "[Service on the Respondent] The people's court should serve a copy of the application on the respondent. The respondent should submit opinions within 15 days from the date of receipt of the copy of the application; if the respondent has no domicile in the territory of the People's Republic of China, it should submit opinions within 30 days from the date of receipt of the copy of the application. Where the respondent fails to do so within the aforesaid time limit, it will not affect the review by the people's court."*

12 Article 38 of *the Minutes*: "*[Handling of Objection to Jurisdiction] Where the respondent has objection to the jurisdiction after the people's court accepts an application for recognition and enforcement of a judgment or ruling rendered by a foreign court, it/he shall raise the objection within 15 days from receipt of the duplicate copy of the application; if the respondent does not have a domicile within the territory of the People's Republic of China, it/he shall raise the objection within 30 days from receipt of the duplicate copy of the application.*

The people's court shall examine and rule on the objection to jurisdiction raised by the respondent. The litigant may file an appeal if it/he disagrees with the ruling on objection to jurisdiction."

13 Article 299 of CPL 2023 Amendment (Article 289 of the CPL 2021 Amendment version): "*For a judgment or ruling made by a foreign court which has come into legal effect for which recognition and enforcement are applied or requested, where a people's court concludes, upon examination pursuant to the international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity, that it does not violate the basic principles of the laws of the People's Republic of China and damage the sovereignty, security or public interest, the people's court shall rule on recognition of the validity; where there is a need for enforcement, an enforcement order shall be issued to enforce such judgment or ruling pursuant to the relevant provisions of this Law.*"

14 Article 41 of *the Minutes*: "*[Standards for Identification of Judgments of Foreign Courts] A people's court shall, based on the substance of a judgment or ruling rendered by a foreign court, examine and identify whether the judgment or ruling is a "judgment or ruling" stipulated in Article 289 of the Civil Procedural Law.*

Judgments, rulings, decisions, orders and other legal documents issued by foreign courts on substantive disputes of civil and commercial cases, as well as legal documents made in respect of civil damages in criminal cases, shall be identified as "judgments and rulings" stipulated in Article 289 of the Civil Procedural Law, but shall exclude preservation rulings and other procedural legal documents issued by foreign courts."

15 Article 42 of *the Minutes*: "*[Identification of Validity of a Judgment] A people's court shall, under the laws of the country in which the judgment is made, examine whether a judgment or ruling has come into legal effect. A judgment or ruling pending appeal or in the process of appeal shall not fall under the scope of "legally effective judgments or rulings" stipulated in Article 289 of the Civil Procedural Law."*

16 Article 43 of *the Minutes*: "*[Circumstances in which the Authenticity and Finality of Judgments cannot be Confirmed] When a people's court hears a case of application for the recognition and enforcement of a judgment or ruling rendered by a foreign court, if it cannot confirm the authenticity of such judgment or ruling or such judgment or ruling has not come into legal effect after examination, the application shall be rejected. After the application is rejected, if the applicant applies anew and the criteria for acceptance are met, the people's court shall accept the application.*"

17 Article 546 (paragraph 1) of *the Interpretation of the Supreme People's Court on the Application of the Civil*

Procedure Law of the People's Republic of China: "*The people's court shall form a collegiate bench to review cases of recognition and enforcement of legally effective judgments or rulings rendered by foreign courts or foreign arbitral awards*"

18 Article 299 of the CPL: "*After examining an application or request for the recognition and enforcement of an effective judgment or ruling rendered by a foreign court in accordance with an international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity, a people's court shall render a ruling to recognize the legal force of the judgment or ruling and issue an order for enforcement as needed to enforce the judgment or ruling according to the relevant provisions of this Law, if the people's court deems that the judgment or ruling neither violates the basic principles of laws of the People's Republic of China nor damages the sovereignty, security, and public interest of the state.*"

19 *Treaty between the People's Republic of China and the Islamic Republic of Iran on Judicial Assistance in Civil and Commercial Matters*, entered into force on 13 July 2021. See Articles 1 and 18 to 24.

20 For example, *Reply of the Supreme People's Court of the People's Republic of China on Whether Chinese Courts Should Recognize and Enforce the Decisions on claims and debts by Japanese Court*, (1995) Min Ta Zi No.17 ((1995)民他字第 17 号); Beijing No. 2 Intermediate People's Court, (2004) Er Zhong Min Chu Zi No. 12687 ((2004)二中民初字第 12687 号).

21 Article 44 of *the Minutes*: "*[Determination of reciprocal relationships] When hearing a case involving an application for the recognition and enforcement of a judgement of a foreign court, a people's court may determine that there is a reciprocal relationship under any of the following circumstances: (1) According to the laws of the country of the foreign court, the civil and commercial judgement made by people's courts can be recognised or enforced by the courts of the country; (2) China reached an understanding or consensus of reciprocity with the country where the court is located; and (3) The country where the court is located has made reciprocity commitments to China through diplomatic channels, or China has made reciprocity commitments to the country where the court is located through diplomatic channels, and there is no evidence to prove that the country where the court is located has refused to recognise and enforce the judgment or ruling made by a people's court on the ground that there is no reciprocity.*

The people's court shall examine and determine whether there is a reciprocal relationship on a case-by-case basis."

22 The Civil Ruling of *Spar Shipping AS v Grand China Logistics Holding (Group) Co. Ltd (A Case of Applying for Recognition of Foreign Court Judgement)*, (2018) Hu 72 Xie Wai Ren No. 1 ((2018)沪 72 协外认 1 号).

23 Supra note 21.

24 Article 301 of the CPL: "*Under any of the following circumstances, the people's court shall deem that a foreign court has no jurisdiction over the case:*

(1) the foreign court has no jurisdiction over the case pursuant to its laws, or the foreign court has jurisdiction over the case but has no appropriate connection with the dispute involved in the case;

(2) the provisions of this Law on exclusive jurisdiction are violated; or

(3) the agreement on exclusive choice of court for jurisdiction by the litigants is violated."

25 Article 300 of the CPL: "*For a judgment or ruling made by a foreign court which has come into legal effect for which recognition and enforcement are applied or requested, a people's court shall rule upon examination not to recognize and enforce such judgment or ruling under any of the following circumstances:*

(1) the foreign court has no jurisdiction over the case pursuant to the provisions of Article 301 of this Law;

(2) the respondent has not been legitimately summoned, or the respondent has been legitimately summoned but has not been given a reasonable opportunity to make a representation and debate, or the litigant without

litigation capacity has not been assigned appropriate agent;

(3) the judgment or ruling is obtained by fraud;

(4) the people's court has made a judgment or ruling on the same dispute, or has recognised the judgment or ruling made by a court of a third country for the same dispute; or

(5) it violates the basic principles of the laws of the People's Republic of China or harms the State sovereignty, security and public interest."

26 The Civil Rulings of (2019) Yue 01 Xie Wai Ren No.3 ((2019)粤 01 协外认 3 号), (2019) Yue 01 Xie Wai Ren No.22 ((2019)粤 01 协外认 22 号) and (2019) Yue 01 Xie Wai Ren No.58 ((2019)粤 01 协外认 58 号).

27 Article 49 of *the Minutes*: "*[Filing and Reporting Mechanism for the Recognition and Enforcement of a Judgment Rendered by a Foreign Court] When a people's court at any level concludes a case involving the application for the recognition and enforcement of a judgment rendered by a foreign court, it shall file the case level by level with the Supreme People's Court for the record within 15 days after rendering the ruling. The filing materials shall include the written application submitted by the applicant, the judgment rendered by the foreign court and its Chinese translation, and the ruling rendered by the people's court.*

Prior to rendering a ruling, the people's court that examines a case in accordance with the principle of reciprocity shall report the proposed handling opinions to the competent high people's court under the jurisdiction for review; if the high people's court agrees with the proposed handling opinions, it shall report its review opinions to the Supreme People's Court for review. A ruling may be made only after the Supreme People's Court gives a reply."

28 Article 546 (paragraph 3) of *the Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China*: "*The ruling rendered by the people's court upon examination shall be legally effective once it is served upon.*"

29 Article 303 of the CPL: "*A litigant who disagrees with the ruling on recognition and enforcement or non-recognition and enforcement may apply to the higher-level people's court for reconsideration within 10 days from the date of service of the ruling.*"

30 Article 544 (paragraph 1) of *the Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China*: "*Where a legally effective judgment or ruling rendered by a foreign court or a foreign arbitral award needs to be enforced by a court in the People's Republic of China, one party shall firstly apply to the people's court for the recognition of the judgment, ruling or arbitral award. After the people's court recognizes the same after review, the enforcement shall be carried out in accordance with the provisions in Division Three of the Civil Procedure Law.*"

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