

**Provisions of the Supreme People's Court on Several Issues concerning the
Establishment of International Commercial Court**

The Provisions of the Supreme People's Court on Several Issues concerning the Establishment of International Commercial Court, as adopted at the 1743rd session of the Judicial Committee of the Supreme People's Court on 25 June 2018, are hereby issued and shall come into force on 1 July 2018.

Supreme People's Court

27 June 2018

Interpretation No.11 [2018]

Provisions of the Supreme People's Court on Several Issues concerning the
Establishment of International Commercial Court

(Adopted at the 1743rd session of the Judicial Committee of the Supreme People's Court
on 25 June 2018 and come into force on 1 July 2018)

For the purposes of trying international commercial cases in a fair and timely manner, protecting legitimate interests of Chinese and foreign parties equally, and creating a stable, fair, transparent, and convenient legal environment for international commercial transactions, serving and safeguarding the implementation of the 'Belt and Road' Initiative, the issues on establishing the International Commercial Court of the Supreme People's Court are hereby set out as follows, according to the *Law of the People's Republic of China on the Organization of the People's Courts*, the *Civil Procedure Law of the People's Republic of China* and other provisions in the light of the actual trial circumstances.

Article 1 The Supreme People's Court establishes the International Commercial Court. The International Commercial Court is one permanent judicial organ of the Supreme People's Court.

Article 2 The International Commercial Court accepts the following cases:

- (1) International commercial cases of the first instance where the amount of subject matter exceeds RMB 300 million and the parties choose the jurisdiction of the Supreme People's Court by an agreement according to Article 34 of the *Civil Procedure Law of the People's Republic of China*;
- (2) International commercial cases of the first instance subject to the jurisdiction of a higher people's court, which the court deems should be heard by the Supreme People's Court and the Supreme People's Court permits;
- (3) International commercial cases of the first instance having a major impact nationwide;

- (4) Applications made for arbitration preservation, revocation or enforcement of international commercial arbitration awards according to Article 14 of this *Provisions* ;
- (5) Other international commercial cases that the Supreme People's Court holds shall be heard by the International Commercial Court.

Article 3 Commercial cases that fall under any of the following circumstances may be determined as 'international commercial cases' as used in this *Provisions*:

- (1) One or both of the parties are foreigners, stateless persons, foreign enterprises or organizations;
- (2) The habitual residences of one or both parties are outside the territory of the People's Republic of China;
- (3) The subject matter is outside the territory of the People's Republic of China;
- (4) The legal facts generating, altering, or eliminating the commercial relationship happen outside the territory of the People's Republic of China.

Article 4 Judges of the International Commercial Court are chosen by the Supreme People's Court from senior judges who possess rich experience in judicial work, are familiar with international treaties, international customs and international trade and investment practices, and have a good command of Chinese and English as working languages.

Article 5 When the International Commercial Court tries a case, a collegial bench consisting of three or more judges shall be formed.

When deliberating a case, the collegial bench shall adhere to the principle that the minority is subordinate to the majority. Minority opinions may be specified in the judgments.

Article 6 If the International Commercial Court issues a ruling on preservation, it may designate a lower people's court to enforce the ruling.

Article 7 When the International Commercial Court tries a case, it shall determine the application of the substantial law in accordance with the *Law of the People's Republic of China on Choice of Law for Foreign-related Civil Relationships*. If the parties choose the applicable law in accordance with the provisions of law, the International Commercial Court shall apply the law chosen by the parties.

Article 8 When the International Commercial Court tries a case, foreign laws applicable to the case shall be ascertained in the following ways:

- (1) Provided by the parties;
- (2) Provided by Chinese or foreign legal experts;

- (3) Provided by institutions specialized in legal ascertainment services;
- (4) Provided by the International Commercial Expert Committee;
- (5) Provided by the central authority of a contracting party which concludes a treaty on judicial assistance with the People's Republic of China;
- (6) Provided by the embassy or consulate of the People's Republic of China in that country;
- (7) Provided by the embassy of that country in the People's Republic of China;
- (8) Other reasonable ways.

Legal materials and expert opinions concerning foreign laws provided through the above ways shall be presented in court in accordance with provisions of law. The court should hear the opinions of the parties.

Article 9 If the evidence submitted by parties to the International Commercial Court is formed beyond the territory of the People's Republic of China, the evidence shall be cross-examined, no matter whether the evidence has been notarized, authenticated or certified by other means.

With the consent of the other party, the party who submits its evidence in English is not required to submit a Chinese translation.

Article 10 The investigation, collection and cross-examinations of evidence by the International Commercial Court may be conducted by using the audio-visual transmission technology or other information network approaches.

Article 11 The Supreme People's Court establishes the International Commercial Expert Committee and chooses qualified international commercial mediation institutions, international commercial arbitration institutions to create a dispute resolution platform incorporating mediation, arbitration and litigation with the International Commercial Court, forming a 'one-stop' international commercial dispute resolution mechanism.

The International Commercial Court supports parties to choose the appropriate way as they believe to resolve international commercial disputes through this platform incorporating mediation, arbitration and litigation organically.

Article 12 The International Commercial Court may commission a member of the International Commercial Expert Committee or a selected international commercial mediation institution to settle a case through mediation within seven days after receipt of the case if the parties involved agree.

Article 13 If parties reach a mediation agreement through mediation conducted by a member of the International Commercial Expert Committee or a selected international commercial mediation institution, the International Commercial Court may issue a mediation statement according to law; if the parties require the issue of a judgment, the

International Commercial Court may draw up a judgement according to the content of the mediation agreement.

Article 14 If parties choose arbitration in the selected international commercial arbitration institutions regulated in Article 11 (1) of this *Provisions*, they may apply to the International Commercial Court for evidence, property or behavior preservation before or after the commencement of the arbitration proceedings.

When parties apply to the International Commercial Court for revocation or enforcement of arbitration awards made by the international commercial arbitration institutions regulated in Article 11 (1) of this *Provisions*, the International Commercial Court should review the application according to the *Civil Procedure Law of the People's Republic of China* and other relevant laws.

Article 15 Judgments and rulings made by the International Commercial Court are effective judgments and rulings.

Mediation statements issued by the International Commercial Court become legally binding as judgments after being signed and received by the parties.

Article 16 Regarding effective judgments, rulings and mediation statements issued by the International Commercial Court, parties are entitled to apply to the headquarters of the Supreme People's Court for retrial according to the provisions of the *Civil Procedure Law of the People's Republic of China*.

Regarding the cases for retrial accepted according to the preceding paragraph, the headquarters of the Supreme People's Court shall form a new collegial bench.

Article 17 For effective judgments, rulings and mediation statements issued by the International Commercial Court, parties are entitled to apply to the International Commercial Court for enforcement.

Article 18 The International Commercial Court provides convenience for litigant participators through the electronic litigation services platforms, the platforms for disclosure of trial procedure information, and other litigation services platforms. The International Commercial Court supports filing lawsuits, making payments, reading files, exchanging evidence, serving documents, and holding court sessions through the Internet.

Article 19 This law shall come into force on 1 July 2018.

Translated by Siyi LIN

PhD candidate, Faculty of Law, The Chinese University of Hong Kong

Email: siyilin@link.cuhk.edu.hk