

Kluwer Arbitration Blog

Recognition and Enforcement of Foreign Arbitral Awards in China Between 2012-2022: Review and Remarks (Part I)

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This two-part article provides an empirical analysis of hundreds of cases concerning the recognition and enforcement of foreign arbitral awards in Mainland China between 2012 and 2022. In summary, the results show that, (1) on average, the courts of the People's Republic of China ("PRC") handled more than 20 applications per year and rendered rulings on nearly half of the applications within 180 days, and (2) more than 90% of the foreign awards submitted to PRC courts were fully recognized and enforced. The findings of this case study highlight China's commitment to upholding the New York Convention and building an arbitration-friendly judicial environment.

Part I presents statistics for recognition and enforcement rates, the geographical distribution of applicants, the amount claimed, the time taken for rulings, respondents' participation, and information on the arbitral awards. [Part II](#) reviews the grounds for the refusal of recognition and enforcement by PRC courts and evaluates the PRC judicial practice.

Methodology

This study examines 203 rulings made by PRC courts concerning the recognition and enforcement of foreign arbitral awards under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("New York Convention"). It does not include any arbitral awards made in the Hong Kong Special Administration Region ("Hong Kong SAR"), the Macao Special Administration Region ("Macao SAR"), or Taiwan, as these arbitral awards are not considered foreign awards in the legal system of the PRC. Their recognition and enforcement are governed by the mutual arrangements between Mainland China and these regions rather than the New York Convention.

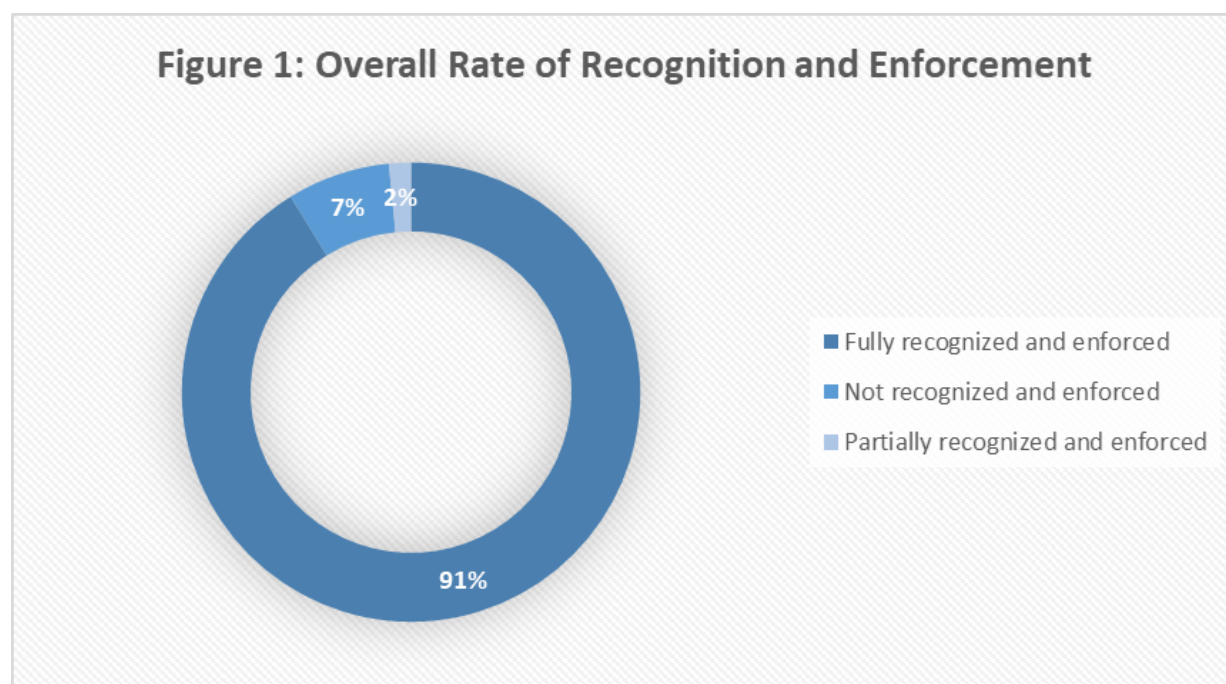
To identify relevant cases, the authors collected PRC court decisions published by PKULAW and Wolters Kluwer China which mention the Chinese translations of the New York Convention.¹⁾ The search was limited to the cases whose dates of ruling were within the period between 1 January 2012 and 3 January 2023. The authors then compared and combined the results of the two databases, conducting an individual review of each court decision, and identifying 203 cases in relation to the New York Convention. Some cases had partial information unavailable, such as the

filing date. To ensure objectivity, the cases with relevant missing information were excluded from the corresponding analysis requiring such information.²⁾

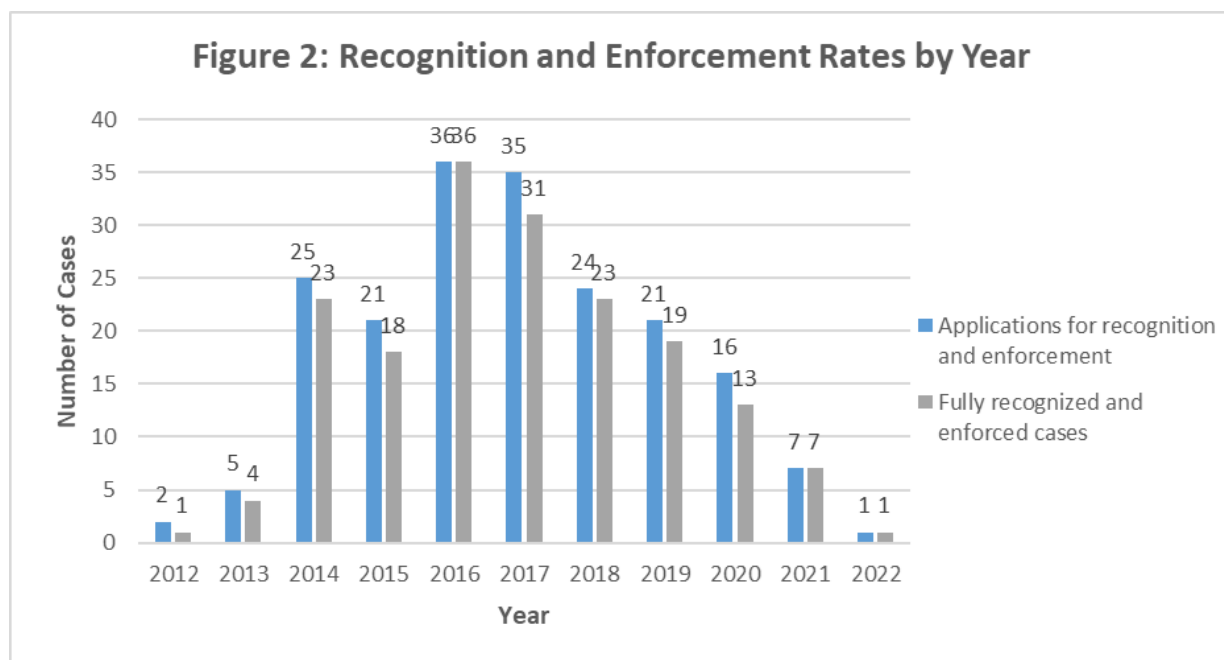
Statistical Results

Rate of Recognition and Enforcement

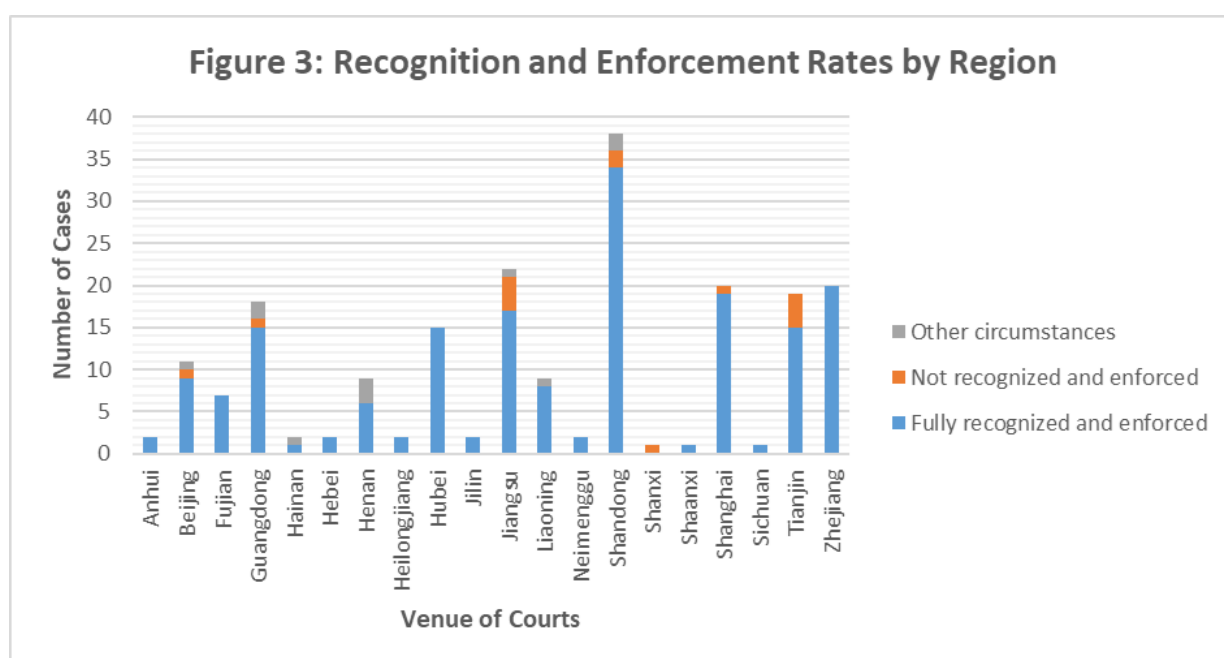
Out of 203 cases, 193 were taken into account for calculating recognition and enforcement rates. Among the ten applications that were excluded from this analysis, six applications were dismissed by PRC courts for reasons such as lack of jurisdiction, one application was transferred to a different court due to jurisdictional issues but no decision by the second court could be found, one case was terminated after the court found that it did not pertain to the recognition and enforcement of a foreign arbitral award, and in two cases, the exact dates of rulings were not disclosed.³⁾ Based on the 193 cases, the rate of full recognition and enforcement is approximately 91%, and the rate of partial recognition and enforcement is approximately 2%. Only 7% of the applications were denied in full.



When reviewed by year, the number of applications for recognition and enforcement increased substantially in 2014 and reached its peak in 2016 and 2017. From 2018 onwards, the number of applications declined, with a rather steep decline in 2021 and 2022. However, the rate of successful recognition and enforcement remained consistently high, showing no significant variation from year to year.



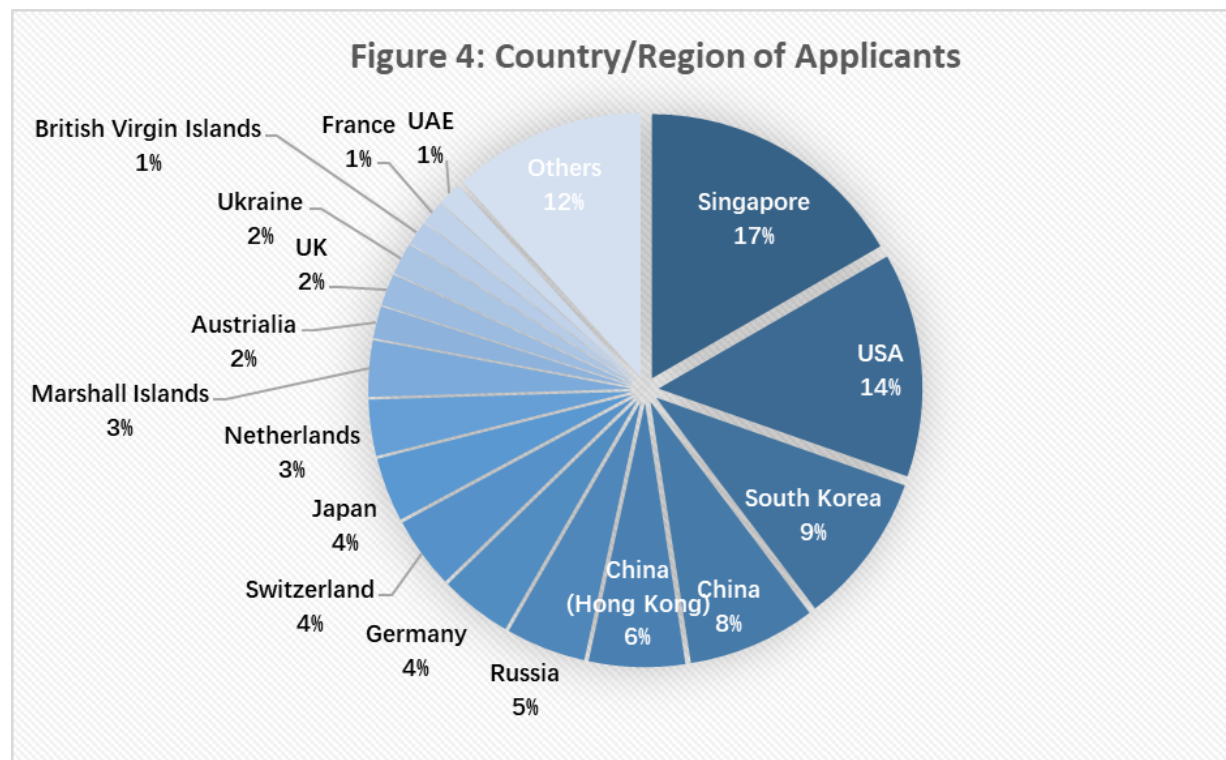
Regarding the venue of the courts, 20 provinces and municipalities have received one or more applications for recognition and enforcement. Among them, Shandong Province received the largest number of applications (38), followed by Jiangsu Province (22), Shanghai Municipality (20), Zhejiang Province (20), and Guangdong Province (18). In the 11 provinces or municipalities with five or more cases, the rates of successful recognition and enforcement mostly span from 77% to 95%, with the rates in three regions reaching 100%, the rate in one region being 67%, and the average rate being 87%.⁴⁾ However, it is important to note that the recognition and enforcement of an award primarily depends on the procedural regularity of the award, and a higher enforcement rate in a particular region does not necessarily indicate a stronger inclination of the local courts to recognize and enforce foreign arbitral awards. The following figure presents detailed regional statistics about recognition and enforcement in all 20 regions.



Geographical Distribution of Applicants

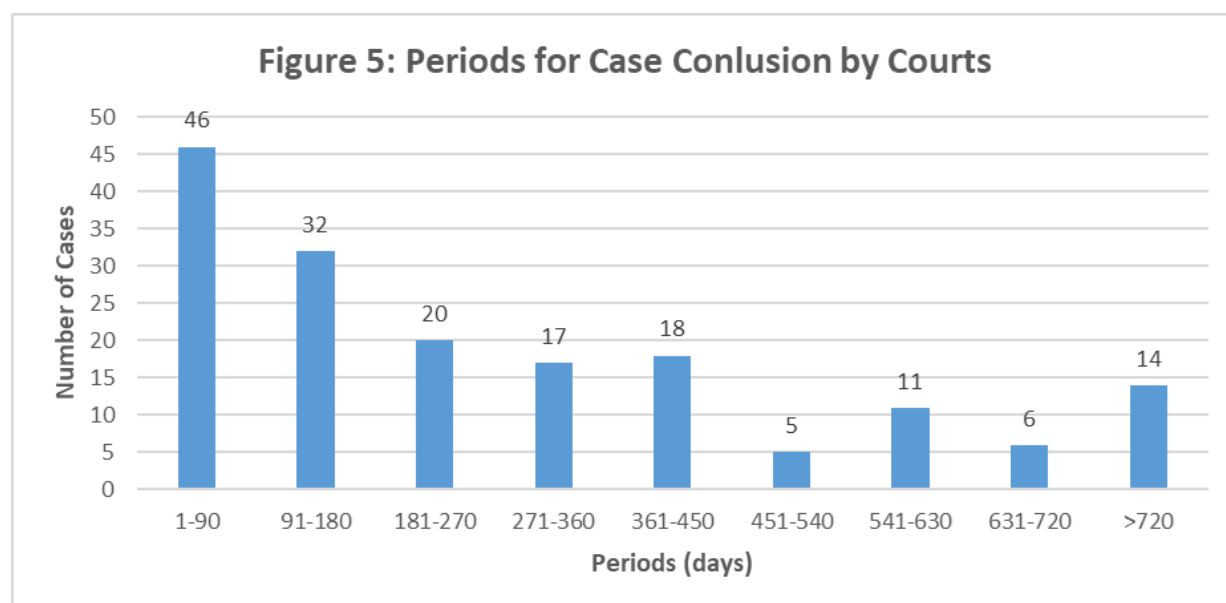
Applicants in the 203 recognition and enforcement instances came from 38 different countries and

regions (including Mainland China and Hong Kong SAR). The three largest sources of applicants were Singapore, the United States, and the Republic of Korea.



Time Taken for Court Rulings and Amounts Claimed

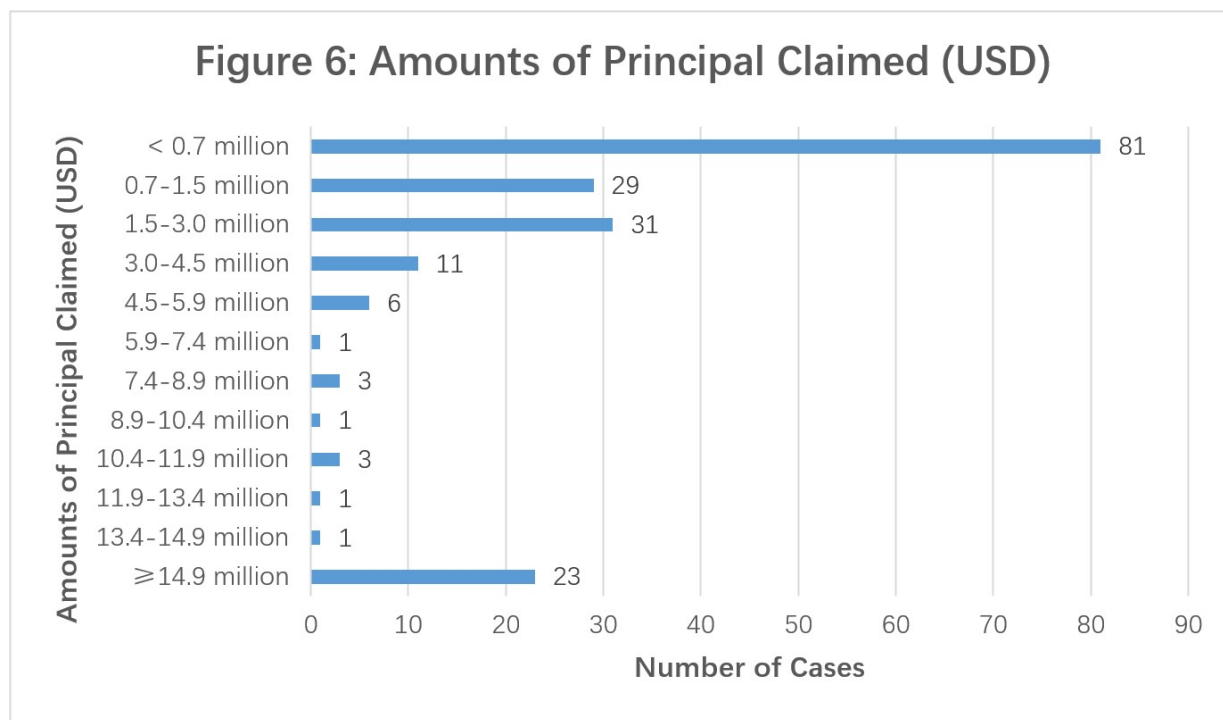
After excluding 34 cases where the starting or closing dates were not disclosed, a total of 169 cases remained, allowing for the calculation of the time taken for PRC courts to rule on recognition and enforcement. The calculation included the period from the date of the submission or registration of the application at the court to the date when the court made the final decision. Among the 169 cases, 46% were concluded within 180 days, about 22% were concluded within 181-360 days, and approximately 24% were concluded within 361-720 days. Only about 8% of all cases underwent periods longer than 720 days.



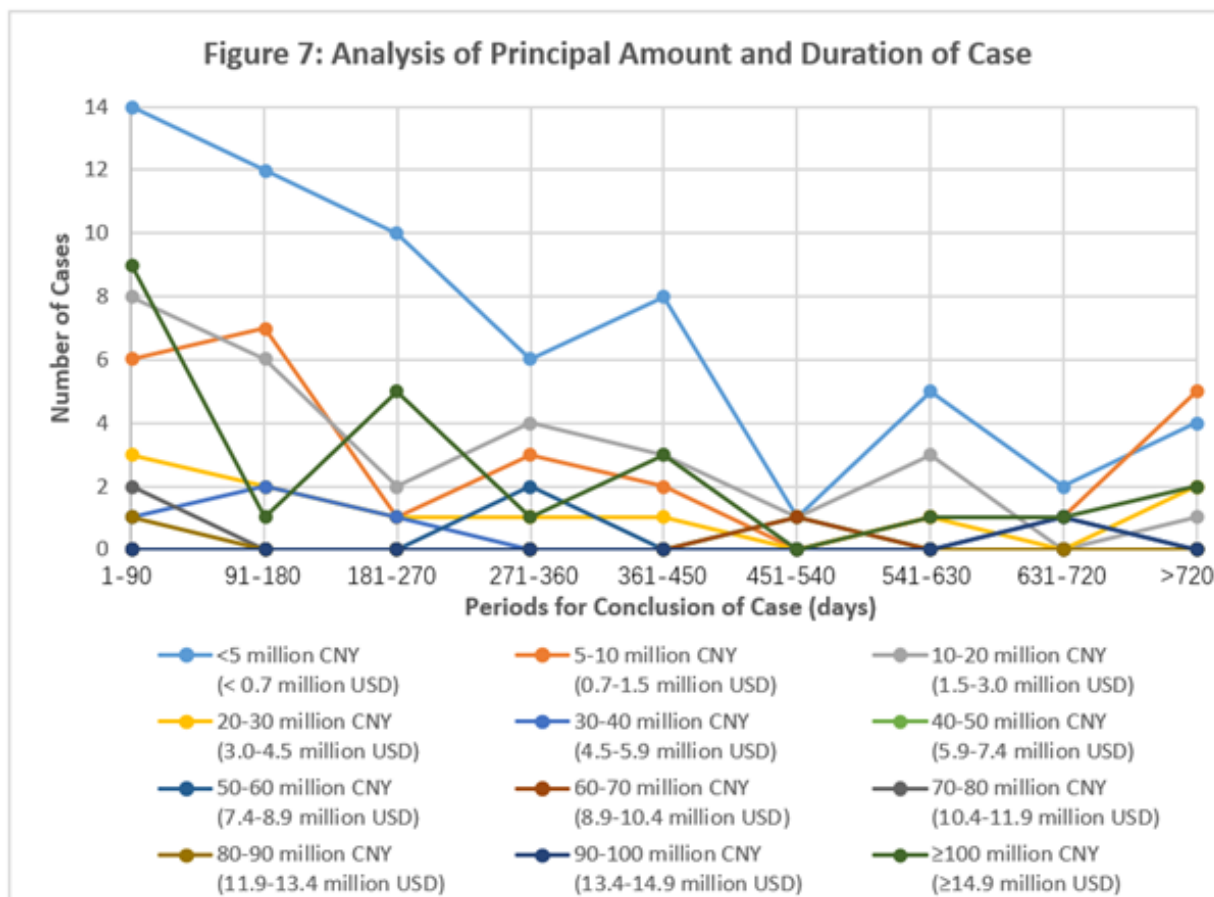
In 79% of the 203 cases, respondents appeared in court, while 17% of cases were decided by

default due to the non-appearance of the respondents after proper notice.

Out of the 203 applications, 202 were filed for execution against property. Among the 191 cases where the amounts of principal claimed were disclosed, approximately 42% had principal amounts claimed under CNY 5 million (USD 0.7 million). The other most frequent ranges in amount were CNY 10-20 million (USD 1.5-3.0 million) (17%), CNY 5-10 million (USD 0.7-1.5 million) (15%), and over CNY 100 million (over USD 14.9 million) (12%).



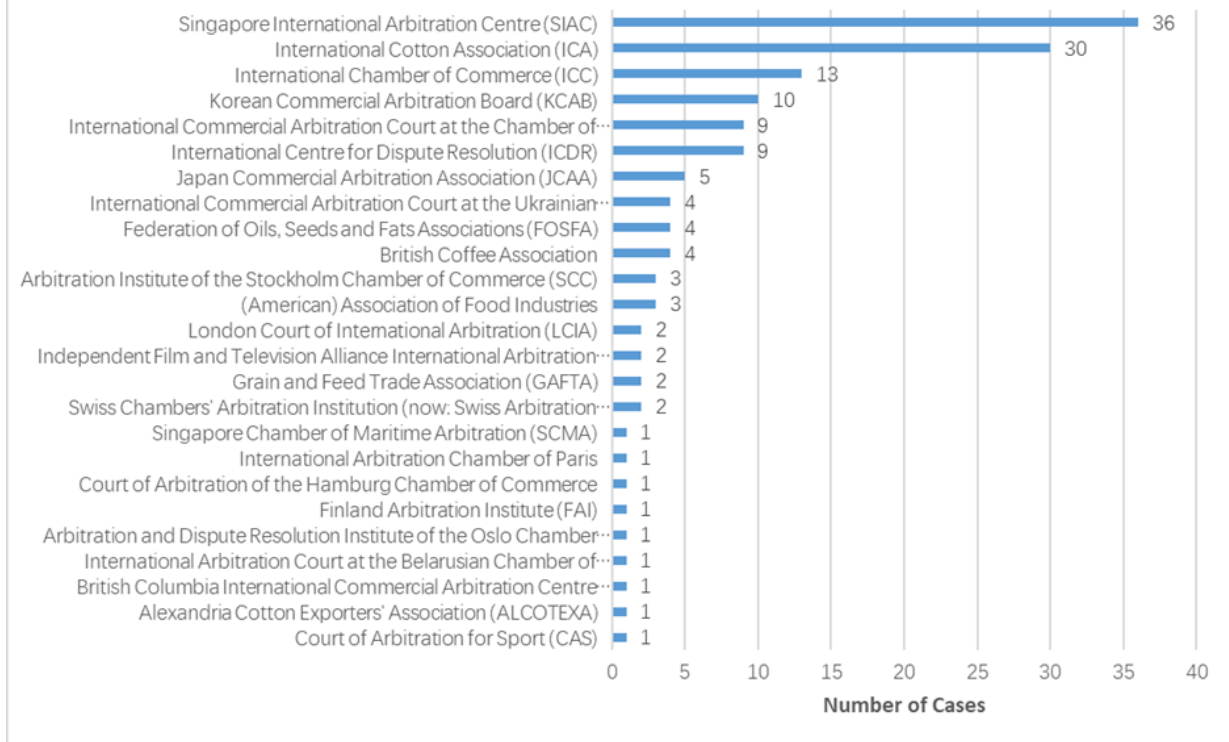
Based on a sample of 163 cases where both the duration and the principal amount claimed were disclosed, this study sought to explore the relationship between the two factors. Overall, there is no apparent correlation between the length of the enforcement process and the principal amount claimed. Regardless of the principal amount claimed, most cases were concluded within 360 days. As the period of case conclusion lengthens, the number of cases for all ranges of the principal amount claimed showed a declining trend.



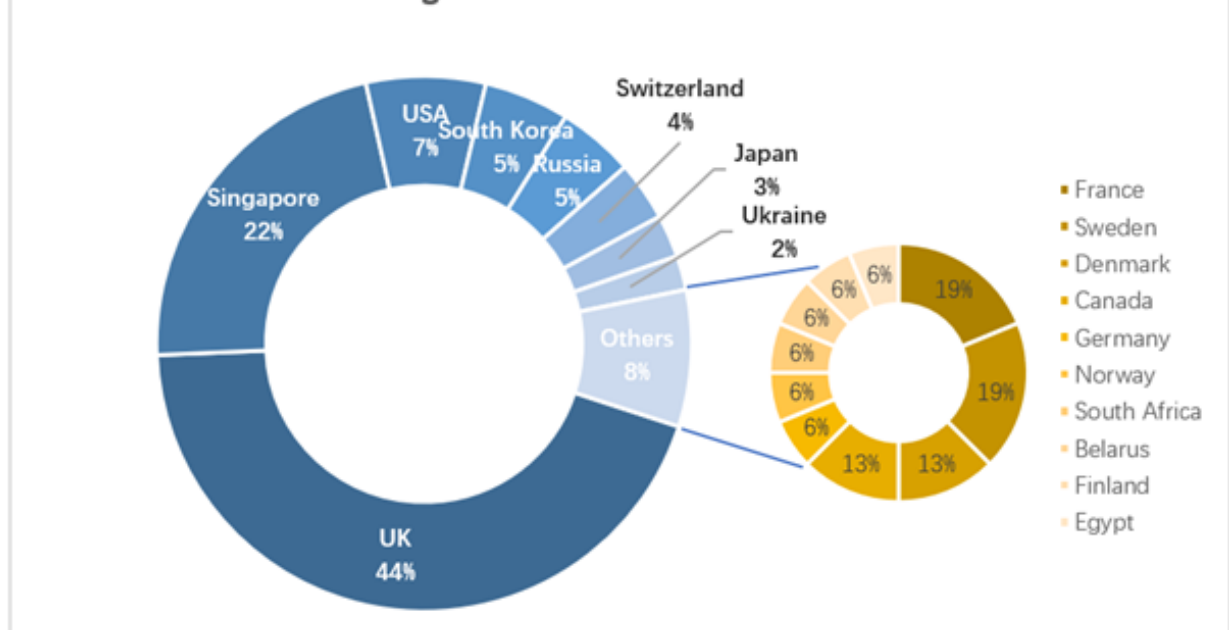
Sources of Arbitral Awards

The 203 cases involved 148 (73%) institutional awards, 52 (26%) *ad hoc* awards and 3 (1%) arbitral awards with the relevant information undisclosed. The administering institution of one institutional award was not disclosed.

Among the 147 institutional awards where the institutions were disclosed, the arbitration institutions with the five largest numbers of awards were: the Singapore International Arbitration Centre (SIAC), International Cotton Association (ICA), International Chamber of Commerce (ICC), Korean Commercial Arbitration Board (KCAB), and International Commercial Arbitration Court at the Chamber of Commerce and Industry of Russian Federation (ICAC at the RF CCI). It is noteworthy that this study did not include awards from the Hong Kong International Arbitration Centre (HKIAC) because those arbitrations are typically seated in Hong Kong and enforced by PRC courts pursuant to the Supreme People's Court's [Mutual Arrangement](#) rather than the New York Convention. The following figure sets out all the arbitral institutions identified in the case study.

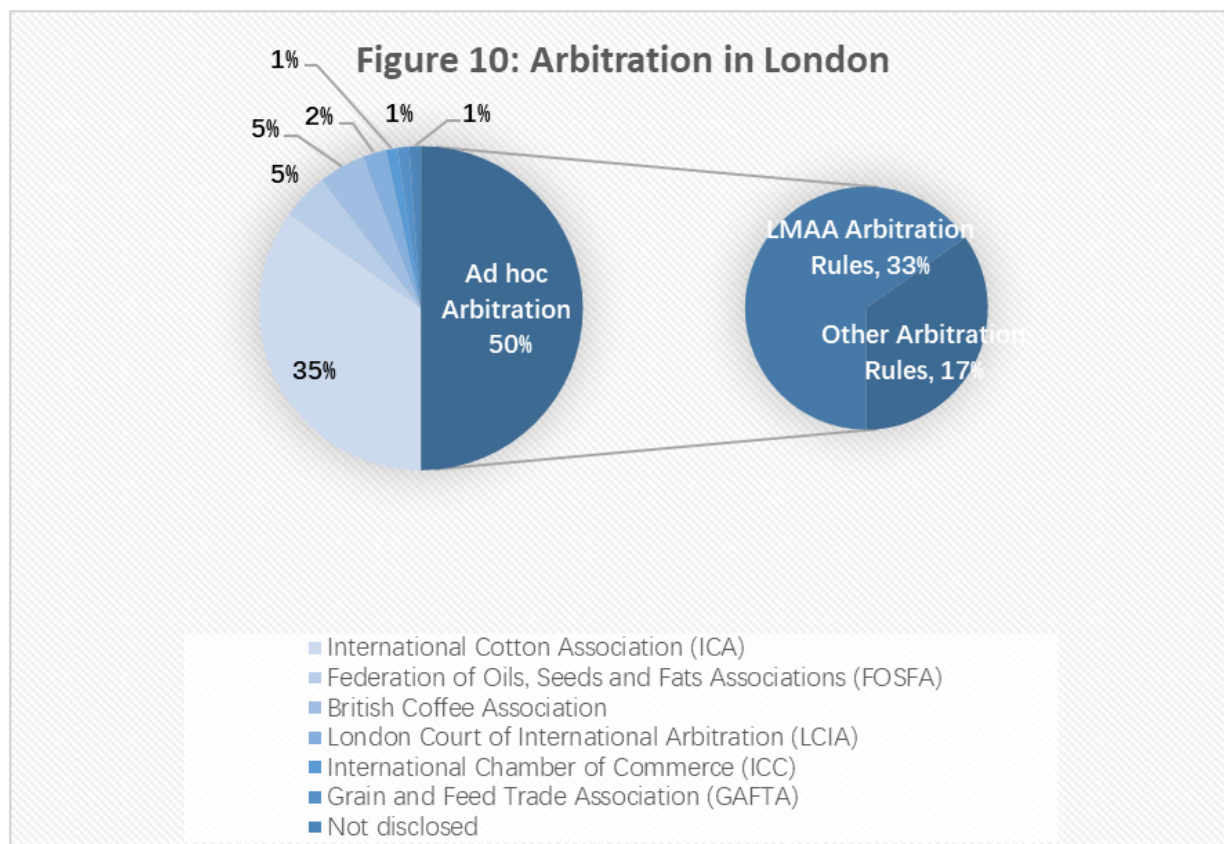
Figure 8: Arbitration Institutions

After excluding eight cases where the seats of arbitration were not disclosed and one case where the parties disputed the seat, resulting in the termination of the proceedings by the court, the seats of arbitration in 194 cases were analyzed. Among these cases, London (with 86 arbitral awards) and Singapore (with 43 arbitral awards) were the most frequently selected seats of arbitration. The following figure sets out the nationalities of the arbitral awards submitted to PRC courts for recognition and enforcement.

Figure 9: Seats of Arbitration

In addition, considering that London was the most commonly observed seat of arbitration in these awards submitted to PRC courts for recognition and enforcement, this study further examined the arbitration rules and administering institutions of the 86 arbitrations seated in London, finding that

43 (50%) were *ad hoc* arbitrations, 28 of which were conducted in accordance with the arbitration rules of the London Maritime Arbitrators Association (LMAA). The other 43 were institutional arbitrations, with the majority (30) being administered by the International Cotton Association (ICA).



Concluding Remarks

In the past eleven years, applicants from more than 30 different countries and regions have applied to PRC courts for recognizing and enforcing arbitral awards rendered in 18 jurisdictions. PRC courts have handled, on average, more than 20 cases each year. Although the number of applications decreased in 2021 and 2022, likely due to the COVID-19 pandemic and relevant restrictions, this article estimates that the number of applications will gradually recover as the pandemic comes to an end and the policy environment becomes more stable.

In general, the rate for successful recognition and enforcement from 2012 to 2022 reached 91%, which is a notably high proportion. [Part II](#) will explore the reasons for non-recognition and enforcement in the remaining cases.


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References

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Due to differences in sample sizes, screening criteria, and perspectives of analysis, there is a possibility that the number of cases identified by other studies may differ from the findings presented in this article. The contents and conclusions of this article are for reference only.

While the exact dates of ruling were not disclosed, it can be inferred from the official case numbers that these two cases were ruled between 2012 and 2022. Therefore, these two cases, while included in this case study in general, were excluded from this section.

In the other nine provinces and municipalities, the rates for successful recognition and enforcement were 100% in eight and 0% in one. Considering the small caseloads, these extremely high and low values present relatively small statistical significance in the calculation of the successful rates by region.

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