

# Comparing the international commercial courts of China with the Singapore international commercial court

Zhengxin HUO, China University of Political Science and Law  
Yip MAN, Singapore Management University

Department of Law  
WANG YIFAN  
R10A21126

# Outline



01

**Background**

02

**Jurisdictional Rules**

03

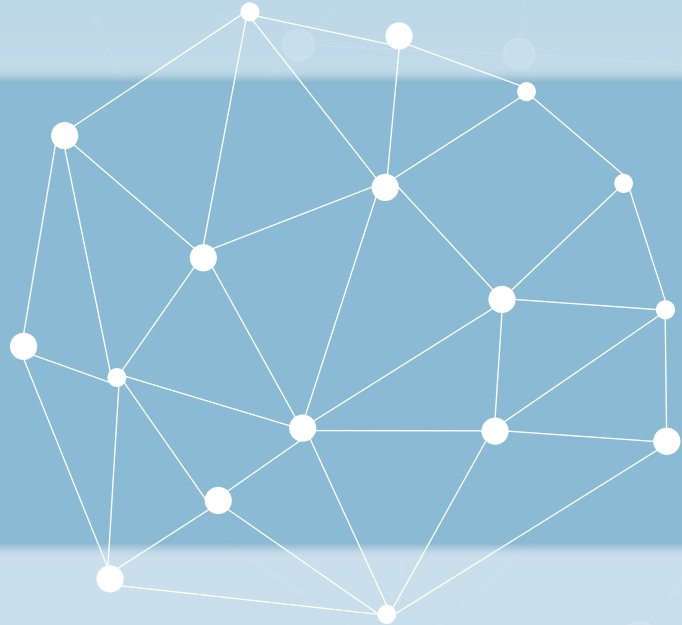
**Procedural Features**

04

**Main Challenges of CICC**

05

**Suggestions**



# Background

CICC & SICC

# “Background”

Macro legal-political perspective:  
Xi's ***Chinese dream of national rejuvenation***

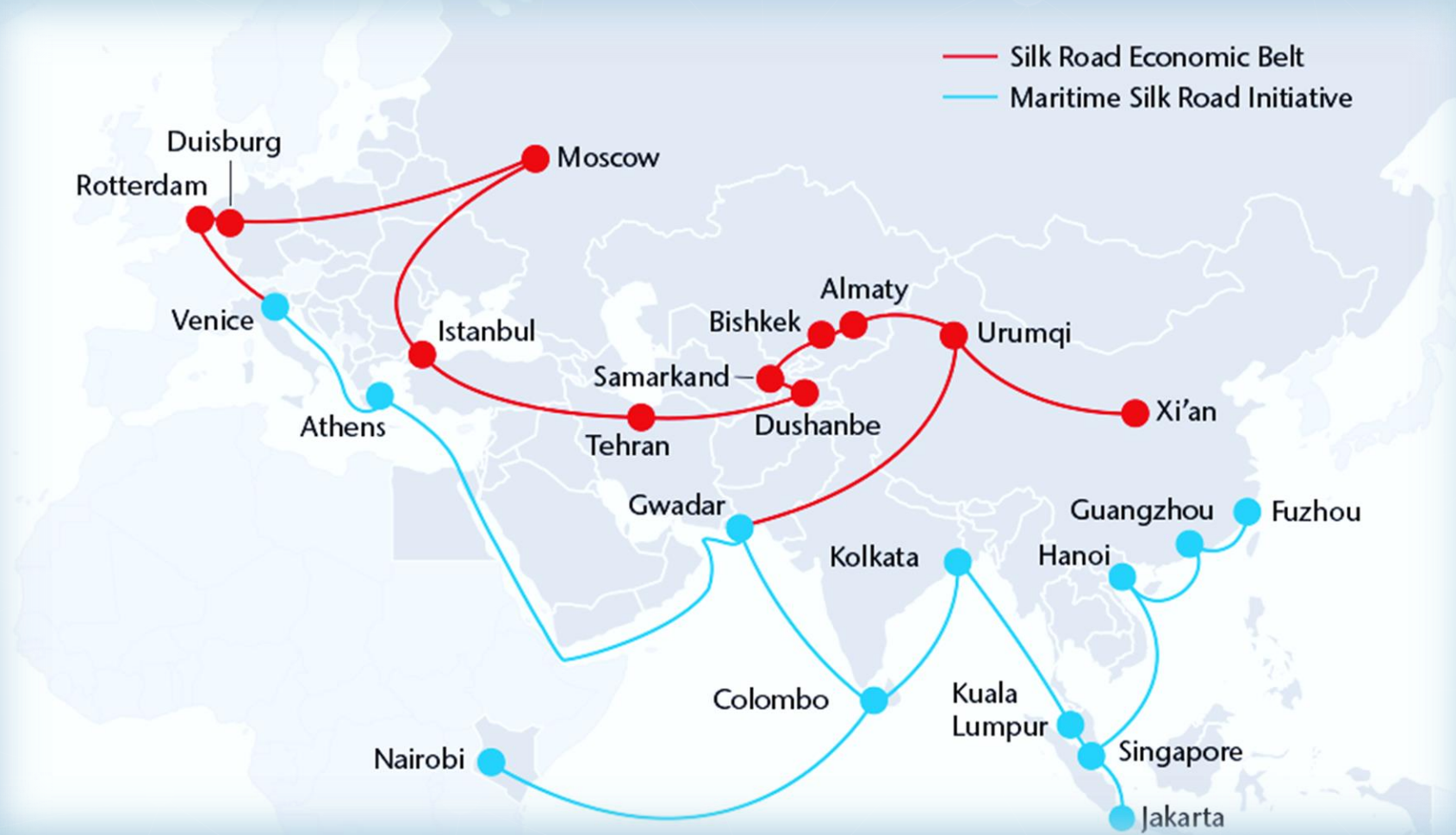
Domestically: Comprehensive Deepening Reforms

Internationally: Belt and Road Initiative (**BRI**)

- Silk Road Economic Belt
- 21st Century Maritime Silk Road

# “Background”

## Belt and Road Initiative (BRI)



“ CICC ”

China International Commercial Court  
中國國際商事法庭

- In 2018, the CICC was established by the Supreme People's Court (SPC) , pursuant to a judicial interpretation document.
- The CICC is part of the SPC, with assistance from a committee of international commercial experts.

“SICC”

| Singaporean International Commercial Court

1. Part of Singapore's efforts to augment the menu of dispute resolution services it offers to the international business community.
2. Created in response to the perceived need for ***a neutral and well-regarded dispute resolution hub in the region***, as a result of the continued growth of cross-border trade and commercial activities in Asia.
3. Aimed to incentivize commercial parties to choose litigation, so that coherent and transparent development of commercial law may take place.



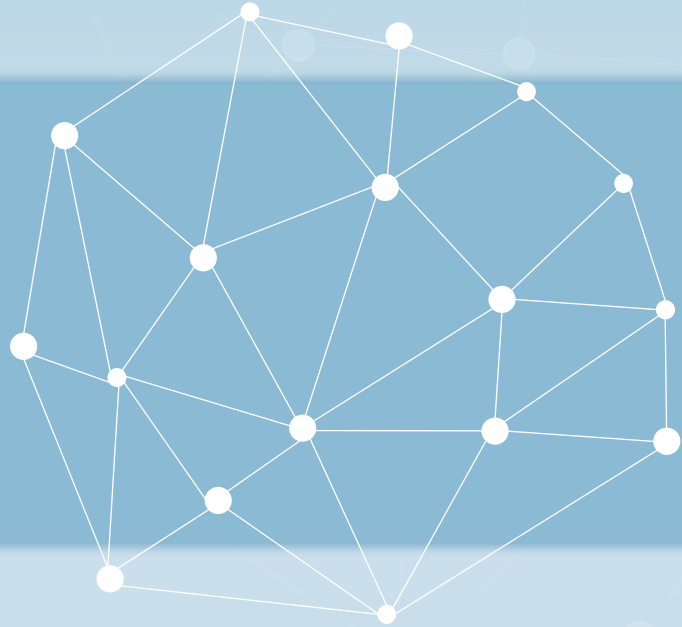
# “CICC & SICC”

One Commonality:

Vision of a ***one-stop shop*** for dispute resolution

- The CICC
  - ensure the consolidation of ***Chinese control*** in dispute resolution
  - safeguard Xi's signature foreign policy theme and the ***Chinese Dream*** against unexpected legal risks.
- The SICC
  - compete for international dispute resolution business
  - advance Singapore's economic interests and strengthen its influence in the region.





# Jurisdictional Rules

CICC & SICC

“ CICC ”

| Consensual jurisdiction

The cases heard by the CICC require

- The actual connection with mainland China, and
- The quantum in dispute exceed ¥ 300 million (only major disputes)

“ CICC ”

| Non-consensual jurisdiction

The cases heard by the CICC:

- Referred to the CICC by the higher people's courts with the approval of the SPC, or
- Having significant nationwide impact in China, or
- Considered appropriate by SPC to be tried by the CICC

Unclear criteria

# “CICC”

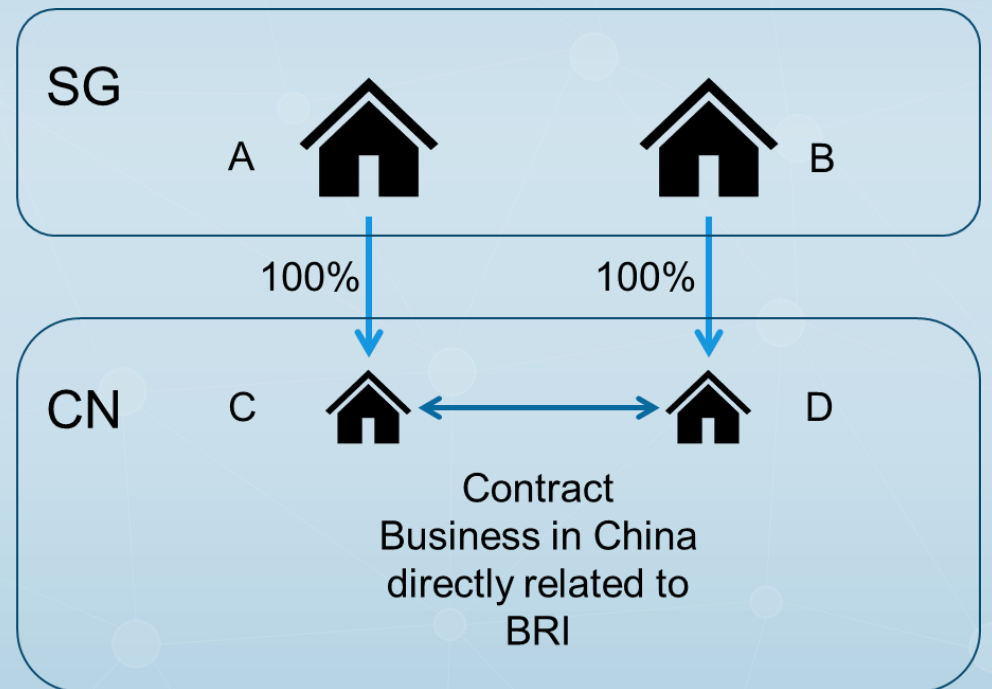
## Subject-matter jurisdiction

- Three-element test for *international*:

- Parties
- Subject matter
- Factual position

- Catch-all clause (X)

Too rigid for effective application



“CICC”

| Subject-matter jurisdiction

### Meaning of **commercial**:

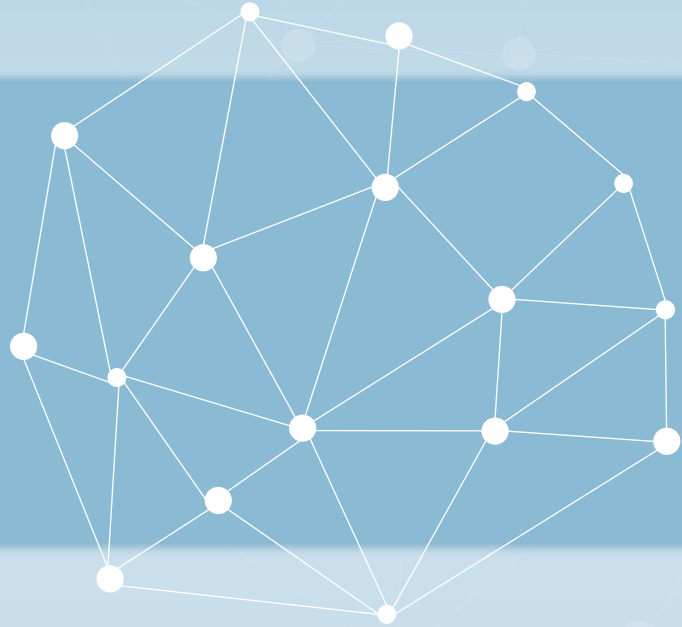
- Not defined in the Judicial Interpretation on CICC
- A senior judge's comment:
  - Investment or trade issues between countries
  - Investment issues between host country and investors
  - To be solved via existing international dispute settlement mechanisms

Very broad but insufficient for certainty

# “CICC & SICC”

Differences can be explained by reference to their different objectives

- Consensual jurisdiction
  - The CICC's limitations:
    - ✓ actual connection with China
    - ✓ the subject amount is more than ¥ 300 million (about \$46 million)
- Transfer jurisdiction
  - Both the CICC and SICC tolerate judicial discretion
  - The SICC ensures greater certainty and respect for party autonomy
- Subject-matter jurisdiction
  - The CICC's definitions of ‘international’ and ‘commercial’ are rigid and do not accord to the parties the right of self-determination.



# Procedural Features

CICC & SICC



# “CICC & SICC”

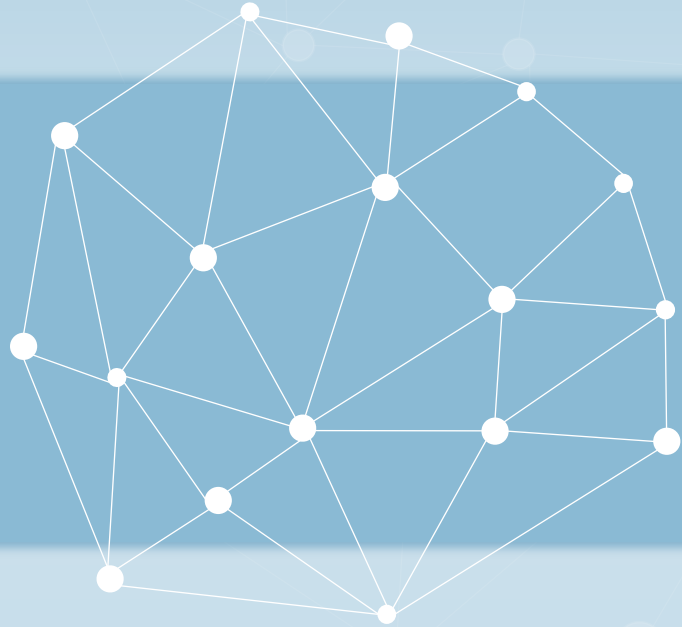
Differences can be explained by reference to their different objectives

	CICC	SICC
<b>Judges</b>	No foreign judges	Foreign judges allowed
<b>Expert Committee</b>	Limited participation	-
<b>Representation by Foreign lawyers</b>	Not allowed	Welcomed
<b>Ascertainment of foreign law</b>	Concrete rules needed	Proof/submission(efficient)
<b>Collegial panel and judgements</b>	Dissenting opinions	International judges
<b>Appeal mechanism</b>	No	Yes
<b>Evidence</b>	May be accepted in English	Greater liberalization
<b>One-stop shop</b>	Restricted	-

# “CICC & SICC”

Differences can be explained by reference to their different objectives

CICC	SICC
<ul style="list-style-type: none"><li>• Restricted foreign influence on the process.</li><li>• Limited procedural innovations within the CICC litigation framework.</li><li>• Conservative and insular</li><li>• Safeguard for the BRI and Chinese interests</li><li>• Not designed to compete for adjudication business</li></ul>	<ul style="list-style-type: none"><li>• Far more internationalized.</li><li>• Striking, coherent and comprehensive procedural innovation.</li><li>• <b><i>A careful marriage between litigation and arbitration.</i></b></li><li>• Stronger contender for international commercial disputes</li></ul>



# Main Challenges

CICC

“ CICC ”

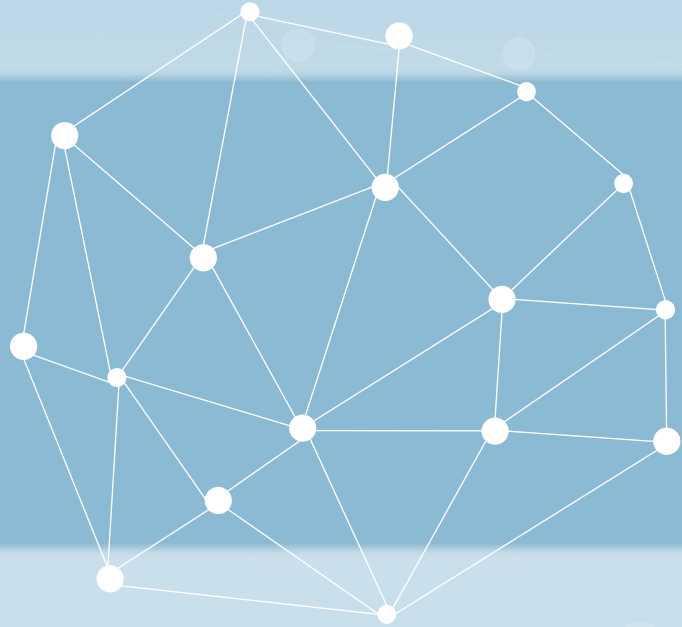
China International Commercial Court  
中國國際商事法庭

- Judicial Interpretation on CICC
  - Constrained by existing Chinese legislation
  - The process of the creation and legitimization of the CICC has severely limited to its capacity for innovation.

“CICC”

China International Commercial Court  
中國國際商事法庭

- The international enforceability of CICC judgments is limited.
- Challenge of building a case stream for the CICC (user confidence)
  - Foreign commercial parties and their legal advisors are likely to be even more hesitant in choosing the CICC as the forum for dispute resolution.



# Suggestions

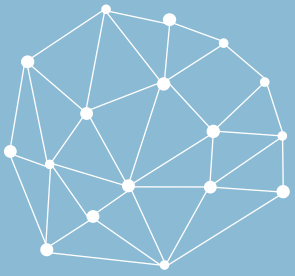
CICC

“CICC”

China International Commercial Court  
中國國際商事法庭

- 1. Legislative legitimization**
- 2. Party autonomy**
- 3. Internationalization**
- 4. Clarification**





# **Innovation through hybridization**



THANK YOU