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Do you have practical expertise in cross-border civil or commercial litigation:

- Yes
- No

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Questions

Consultation on the draft text of a possible convention on parallel proceedings and related actions

Question 1 on the scope of the Draft Text

1.1 What are your views on the scope of the Draft Text?

I generally support that the Draft Text is positioned as a civil or commercial procedural coordination instrument between courts of different Contracting States, with revenue, customs and administrative matters excluded. However, the exclusions list is extensive, which may reduce practical utility for China given the volume of China-related maritime, trade, intellectual property, and cross-border restructuring disputes.

1.2 Does the subject matter scope of the Draft Text cover those matters for which rules on parallel proceedings and related actions would be beneficial?

Yes, the civil or commercial scope captures many core cross-border disputes where coordination rules can reduce duplicative proceedings and inconsistent outcomes. I recommend that the Draft Text can retain the overall civil or commercial framework, but consider more detailed tailoring.

1.3 What are your views on the subject matter exclusions in particular, and how they would work in practice? For example, what are your views on the formulation of the arbitration exclusion in Article 2(3)?

I broadly understand and support using exclusions to avoid overlap with specialised regimes and politically sensitive areas, but the instrument would benefit from clearer operational boundaries: in particular, it should be made explicit that where an excluded matter arises only as a preliminary question or defence, this does not automatically remove the entire case from scope; as for the arbitration exclusion, it is appropriate in principle because it is designed to avoid interference with the New York Convention and to ensure the instrument does not apply where an arbitration agreement is at issue, yet further clarification of what counts as “arbitration-related proceedings” would reduce tactical litigation and uncertainty.

1.4 What are your views on the geographical scope of the Draft Text and how it would work in practice? (See paragraph 16 for further information).

Art 1(1) is clear and workable; for the bracketed additional nexus in Art 1(2), China could cautiously support a nexus requirement for legitimacy and manageability, but it should not be drafted so narrowly that it excludes multi-party, complex transactions where coordination is most needed, and it should be aligned with the definition of habitual residence for legal persons and accompanied by workable evidentiary and interpretive standards.

Question 2 on definitions

What are your views on the definitions of parallel proceedings and related actions? In particular, please share your views on how these definitions might operate, and be applied by parties and courts, in practice.

I generally support the definitions of parallel proceedings by the objective criteria of the same parties and the same subject matter between courts of different Contracting States, in order to reduce room for procedural manoeuvring through conceptual expansion; at the same time, it is necessary that related actions apply a broader connectivity standard that allows parties to be partly the same or substantially the same and disputes to arise from the same transaction or factual

chain with a risk of inconsistent judgments, but it is recommended that the Explanatory Report provide stricter and workable, example-based guidance on how to assess substantially the same, the same subject matter and the same transaction or factual chain, and the risk of inconsistent judgments, so that the definitions are not used as tools for delay or jurisdictional evasion.

Question 3 on when a court is deemed to be seised

What are your views on Article 4?

As regards the rule in Article 4 on when a court is deemed seised, the two starting points can reflect procedural differences across States, but in light of Chinese practice it is preferable to emphasise the time of submission to the court and completion of acceptance or registration, and to reduce disputes and tactical racing driven by manipulable steps in service.

Question 4 on Article 5 obligations

What are your views on Article 5?

I generally support Article 5's suspension-centred structure, requiring the court to suspend promptly once it is informed of proceedings in the other court, to dismiss after the other proceedings result in a judgment capable of recognition and, where applicable, enforcement, and to allow resumption on a party's request where the other court is unlikely to render or has not rendered a merits judgment within a reasonable time, because this helps reduce duplicate litigation and inconsistent outcomes. At the same time, it is recommended that the Explanatory Report provide clearer guidance on how being informed should be evidenced and how reasonable time should be assessed, and that a prudent approach of continuing suspension be retained where the prospect of recognition remains uncertain, so as to reduce procedural disputes. It aligns with this structure and highlights that Article 5 functions as a simple three step toolkit, suspend first, dismiss when a recognisable and enforceable judgment is expected, and resume if no merits decision is made within a reasonable time, and that the main practical flashpoint will be defining reasonable time across different procedural speeds, so from a China based perspective clearer and generally shorter time benchmarks and clearer guidance on the preliminary recognition and enforcement assessment would help avoid renewed parallel proceedings and procedural contest.

Question 5 on priority jurisdiction / connection

What are your views on Articles 6 – 8 including how they will work in practice?

I generally support the tiered approach in Articles 6 to 8 for identifying which court should proceed first. Article 6 uses the location of the immovable property as a priority connecting factor for disputes over rights in rem. Article 7 gives priority to party autonomy. Article 8 provides a list of connecting factors where the first two do not apply, which can reduce uncertainty in parallel proceedings. However, for practical operability, Article 8 contains many connecting factors and in principle has no hierarchy, which may increase room for forum selection and procedural contest. It is therefore recommended that the Explanatory Report further clarify key assessment standards, such as the timing and form requirements for consent under Article 7, how reasonable time should be assessed under Article 8, and how connecting factors should be evaluated in multi-defendant cases, so as to balance predictability and efficiency.

Question 6 on Article 8(2) jurisdiction / connection requirements

6.1 What are your views on the 'jurisdiction / connection' list in Article 8(2)?

I generally support using the list of connecting factors in Article 8 paragraph 2 to define whether a court has a minimum substantive link, so that there is a predictable threshold for triggering the obligations in Article 8. However, the Consultation Paper notes that the list contains multiple alternative factors that operate on an equal footing and have no hierarchy, which in practice may increase room for forum selection and procedural contest, and the list

goes beyond the 2019 Judgments Convention even though it uses it as a starting point, which may raise coordination issues with the circulation of judgments. It is therefore recommended that the Explanatory Report further narrow the approach or clarify priority among core factors, and provide clearer guidance on key concepts such as multi-defendant cases and the time at which the defendant became a party, so as to reduce the risk of tactical litigation.

- 6.2 Based on your experience, do you consider these factors appropriate for parallel proceedings i.e. for obliging courts to suspend or dismiss proceedings if they are not seised on the basis of one of these? Why or why not?

I generally consider the factors in Article 8 paragraph 2 to be appropriate as a basis for triggering suspension or dismissal obligations in parallel proceedings, because they are intended to confirm a minimum substantive link between the court and the parties, consent, or the dispute, thereby giving some predictability to Article 8 paragraph 1 which requires a court without such a link to suspend or dismiss.

- 6.3 Are there any additional factors that you believe should be included?

I am inclined not to add further connecting factors at this stage, and instead to prioritise clarifying and modestly narrowing the operation of the existing list. If additional factors are nevertheless considered necessary, they should be very restrained, verifiable, and not easily abused, with strict boundaries set out in the Explanatory Report to reduce the risk of tactical litigation.

Question 7 on the determination of the more appropriate court

- 7.1 What are your views on the approaches proposed in Article 9 for determining which court should adjudicate the dispute in cases of parallel proceedings which Articles 6 – 8 have not resolved?

Article 9 should strike a balance between efficiency and respect for sovereignty, so I am more inclined toward an approach that does not require a court in one Contracting State to follow the decision of a court in another Contracting State, and that instead focuses on each court making an expeditious assessment under a common set of factors to reduce procedural contest and uncertainty. At the same time, if the approach led by the court first seised is retained, it should be accompanied by tighter timing requirements and a higher threshold for exceptions, allowing a court other than the court first seised to resume proceedings only where it is truly necessary and clearly more appropriate, so as to reduce the tactical advantage of racing to file and better protect access to justice.

- 7.2 What are your views on how the two approaches may work in practice?

In practice, Approach 1 gives the court first seised the central role to determine the more appropriate court and requires the other courts to suspend first, which can help converge quickly on one court and reduce duplicate procedures, but if the timing for applications and the conditions for exceptions are not clear enough, it may amplify races to file and procedural disputes. Approach 2 gives the more appropriate court assessment to courts other than the court first seised and does not require any court to suspend, dismiss, or proceed based on the decision of a court in another Contracting State, which is more balanced in terms of acceptability, but it also carries a higher risk of different courts making separate assessments and reaching inconsistent outcomes, so it relies more on party driven

applications, expeditious decisions, and court to court information exchange to reduce uncertainty. [Click or tap here to enter text.](#)

7.3 Do you have a preference for either approach? If so, please explain why.

I am more inclined to adopt Approach 2 of Article 9, that is, to have a court other than the court first seised make the determination of the more appropriate court, and not to require a court of one Contracting State to suspend, dismiss, or continue proceedings in accordance with the decision of a court of another Contracting State. The reason is that this design better aligns with concerns about judicial sovereignty and procedural autonomy, reduces concerns about “being compelled to follow a foreign court’s decision”, and at the same time can still control the costs of parallel proceedings through arrangements such as an initial suspension. To avoid the risk that different courts make separate determinations and produce inconsistent conclusions, it is recommended to emphasise timely party applications, expeditious court decisions, and full use of court to court information communication mechanisms to reduce uncertainty.

Question 8 on factors to be considered to determine the more appropriate court

8.1 What are your views on the factors listed in Article 10 for determining the more appropriate court in cases of parallel proceedings subject to Article 9 (i.e. that are not resolved by Articles 6 – 8)?

I generally support the factors listed in Article 10, because they capture the most key and also the easiest to understand assessment points in practice, including the burdens of litigation on the parties and their convenience, the ease of accessing or preserving evidence, the law applicable to the claims, the stage of the proceedings before each court and possible delay, whether one court is more likely to provide a complete resolution of the dispute, and the likelihood of recognition and, where applicable, enforcement of the judgment in the Contracting State of any other seised court; from a China based perspective, it is recommended in application to place more emphasis on the ability to resolve the dispute as a whole and the likelihood of recognition and enforcement, to avoid making applicable law a decisive factor as far as possible, and to require courts to give brief reasons explaining how the factors are weighed, so as to reduce forum shopping and procedural disputes.

8.2 Do you have any views on how Article 10 might work in practice?

In practice, Article 10 is more likely to be used as a simple overall balancing framework, and after a party makes an application under Article 9, the court will make a quick and brief assessment and state the main reasons by focusing on key points such as litigation burdens and convenience, access to evidence, the stage of the proceedings, the likelihood of a complete resolution, and the prospects of recognition and enforcement of the judgment, and it may also exchange key information through the communication mechanism in Article 16 to reduce duplication and mistakes. To avoid turning this assessment into another mini hearing before the merits, it is recommended to emphasise procedural time limits and timely information disclosure, and to reduce excessive argument about abstract factors, so as to reduce procedural contest. [Click or tap here to enter text.](#)

8.3 Are there additional considerations that, in your view, should be taken into account?

I do not think many additional factors need to be added, but I recommend making it clear that two points should be considered in the practical weighing, first whether there is obvious abuse of process or delay by a party, so as to reduce room for racing to file and forum shopping, and second whether choosing one court would cause a clear denial of justice or

make it difficult for a party to obtain effective relief, so as to better balance efficiency and fairness.

Question 9 on the effectiveness of the framework for parallel proceedings

Do you have an overall view on the effectiveness of the framework developed in the Draft Text for dealing with **parallel proceedings** in an international context? Please explain any advantages and / or disadvantages of the framework, and how you think it will work in practice.

This parallel proceedings framework is overall effective, because it starts from suspension, uses a judgment capable of recognition and, where applicable, enforcement as the hinge, allows resumption when necessary, and together with the court to court communication mechanism and safeguards such as preventing abuse of process, it can in general reduce duplicate litigation and inconsistent outcomes; however, in practice it may also create new procedural disputes, such as how being informed is evidenced, how reasonable time is assessed, and how the prospect of being capable of recognition and enforcement is evaluated, and if guidance is not clear enough, it may instead be used to delay proceedings, so a more realistic approach is to clarify key standards in the Explanatory Report, emphasise timely party disclosure and set relatively clear procedural timeframes, and make the communication mechanism workable, so that the framework can achieve its intended effect.

Question 10 on related actions

Do you have a view on the effectiveness of the framework developed in the Draft Text for dealing with **related actions** in an international context? Please explain any advantages or disadvantages of the framework, and how you think it will work in practice.

The Draft Text framework for related actions is overall useful, because it is triggered by a party application, requires each seised court to make its own independent determination within a reasonable time, and provides three tracks, one court adjudicating the entirety, one court adjudicating part, or continuing separate proceedings, which can help reduce inconsistent outcomes and improve procedural efficiency. The disadvantage is that this framework does not require, as parallel proceedings do, a strict connection or jurisdiction threshold first, which in practice may raise concerns about exorbitant jurisdiction, and it may also produce inconsistent conclusions because different courts make separate determinations. I consider that in practice it is more likely to work by using cooperation and communication under Articles 15 to 16 to reduce information gaps, and by relying on safeguards such as avoiding denial of justice and preventing abuse of process to correct problems, so that the framework can gradually take effect.

Question 11 on the communication mechanism

11.1 What are your views on the practical operation (or the effectiveness) of the communication methods set out in Chapter IV of the draft text for use between courts seised, in cases involving parallel proceedings and related actions?

The Chapter IV communication mechanism is overall useful, because it helps courts in two places verify early whether the other court has been seised, the case progress, and key procedural milestones, so that they can decide more quickly whether to suspend, dismiss, or coordinate the proceedings, and reduce duplicate litigation and the risk of inconsistent judgments. A more workable approach is to rely mainly on written, recordable communications, and to prioritise communication through the parties or through a competent authority channel, and to consider limited direct court to court communication cautiously only where the rules are clear and procedural rights and confidentiality requirements are protected. Since the Chapter IV mechanisms are framed mainly as encouragement rather than enforceable duties, they may lack practical bite and become

underused, so from a China based perspective it would be helpful to add a more structured and at least minimally binding consultation or coordination step between the seised courts, and to encourage settlement or mediation to reduce tactical racing and abusive parallel filings.

11.2 Are there particular advantages and challenges you foresee in applying these methods?

The advantages are to reduce information asymmetry, reduce the costs for parties of duplicate evidence and duplicate hearings, and reduce inconsistent outcomes driven by procedural racing. The challenges are mainly language and translation costs, the security and compliance requirements of communication channels, limits in different procedural systems on ex parte communication, and how to ensure the parties are informed at the same time and have an opportunity to be heard . It is therefore recommended to emphasise simultaneous notice to the parties, mainly written communications, necessary translation support, and standard forms and clear time limits for the competent authority channel, so as to reduce operational difficulty.

Question 12 on safeguards

What are your views on the three safeguards provided in the Draft Text (Articles 19-21), particularly as to how they will operate in practice?

I generally support the Draft Text providing three safeguards, because they provide a necessary safety valve for the obligations to suspend or dismiss from three angles, avoiding denial of justice, preventing abuse of process, and protecting the forum State public policy and sovereignty and security interests, and this helps increase the likelihood of acceptance and practical implementation in China. In practice, it is recommended to treat these safeguards as exceptions and apply them strictly, for example denial of justice should focus on situations where a party truly cannot effectively present its case or obtain relief and it should not become a new basis of jurisdiction, abuse of process can address bad faith racing to court and procedural disruption but should avoid generating additional disputes, the public policy exception should keep a high threshold to avoid overuse, and the Explanatory Report should provide clear examples and require courts to give brief reasons, so as to reduce uncertainty.

Question 13 on the objectives of the Draft Instrument

13.1 Would the rules set out in the Draft Text achieve the objectives of a future instrument?

The objective of a future instrument is to enhance legal certainty, predictability and access to justice by reducing litigation costs, and to mitigate inconsistent judgments in transnational litigation in civil or commercial matters.

Overall, I think the Draft Text rules have a good chance of achieving the objectives of a future instrument, namely enhancing legal certainty, predictability and access to justice in transnational civil or commercial litigation, and reducing litigation costs and inconsistent judgments. The key is that the Draft Text provides a relatively clear path of suspension, dismissal and resumption for parallel proceedings, and encourages the exchange of information through the communication mechanism, so that parties and courts can more easily foresee where the case should continue. From a China based perspective, whether it can work in practice depends on whether the key standards and procedural timeframes are clear enough, so as to avoid new procedural disputes about reasonable time and the assessment of being capable of recognition and enforcement.

13.2 Do you have any views on whether the proposed rules set out in the Draft Text would improve the status quo?

I think the Draft Text rules would overall improve the status quo, because they provide a relatively clear path of suspension, dismissal and resumption for parallel proceedings, and are complemented by factors for determining the more appropriate court and a court to court communication mechanism, so that parties and courts can more easily foresee where the case should continue, thereby reducing duplicate litigation and inconsistent judgments. However, to truly be better than the status quo, the key concepts and procedural requirements need to be clearer, such as reasonable time, the assessment of being capable of recognition and enforcement, and procedural rights and confidentiality requirements in communications, otherwise the Draft Text may introduce new procedural disputes.

13.3 Do you consider there are any risks of tactical or satellite litigation arising from any of the provisions, or the overall approach of the Draft Text? Are these risks greater or fewer than those that currently exist? Are there any ways that such risks could be addressed in the Draft Text?

I think the Draft Text may indeed create certain risks of tactical or “satellite” litigation, for example repeated argument over whether a court has been informed, what counts as reasonable time, which court is more appropriate, and whether a judgment is capable of recognition and enforcement, and even racing to file or delaying to gain a procedural advantage . However, overall these risks are not necessarily greater than the current situation, because when there are no uniform rules parties are already likely to sue repeatedly in multiple places and create even more conflicts; the key is to control the risks, for example by making key concepts and evidentiary requirements clearer in the text or the Explanatory Report, setting clearer procedural time limits, strengthening information disclosure and written communications, and strictly applying the safeguard on preventing abuse of process, so as to reduce unnecessary procedural disputes.

Question 14 - comments

What other comments, if any, do you have?

No.