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# Research On International Commercial Arbitration And Judicial Boundaries

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**Abstract:** Court and arbitration are the two most common dispute resolution methods, and they play an important role in international commercial dispute resolution, prompting research into the relationship between judicature and arbitration. This paper mainly focuses on the cross procedure between judicature and arbitration, studies the influence of judicature on arbitration, pays attention to the two-way interaction between them, clarifies the limits and boundaries of arbitration and judicature, analyzes the relationship between them within the cross scope, and clarifies the fact and legal scope of the two-way interaction between arbitration and judicature.

**Keywords:** international commercial arbitration; Judicial boundaries; Bidirectional analysis

## Chapter one Introduction

### 1.1Research Background

International commercial courts, international commercial arbitration, mediation, good offices and other are widely accepted forms of international trade dispute resolution mechanisms. Choosing different dispute resolution methods for different types of disputes has a significant impact on resolving disputes, improving economic benefits, and promoting international friendly cooperation. International commercial arbitration, which is neutral, professional, efficient, confidential and enforceable outside the territory, is increasingly favored and valued by all parties, including Chinese enterprises, and is becoming an important way to resolve international commercial disputes. At the same time, countries are constantly attempting to optimize their own judicial systems, improve judicial service levels, attract parties to settle disputes in this country, and increase their competitiveness in the field of international commercial dispute settlement. As a result, China's comprehensive national strength must be improved urgently in order to properly

handle the relationship between international commercial arbitration and justice, so that they can jointly serve the settlement of international commercial disputes and assist China in building an international commercial dispute settlement center.

### 1.2Motivations and Objectives

The court's judicial review has a significant impact on many aspects of international commercial arbitration, including the composition of the arbitration tribunal, the recognition and enforcement of awards, and so on. While judicial activities have an impact on arbitration, the judiciary is constantly adapting to arbitration and the development of modern commercial society as the arbitration system evolves. At the moment, research on the relationship between the two focuses on a one-way analysis from judicature to arbitration, and judicial boundaries in commercial arbitration are frequently overlooked. Starting from the basic attributes, this paper will analyze the intersection of the two, clarify the respective limits and boundaries of arbitration and justice, and clarify that the division of labor and value pursuit of the two are different in the dispute resolution system, but at the same time, they can support each other and learn from each other to jointly promote the development of the rule of law.

## Chapter Two Clarify the attribute of judicial review and clarify the possibility of judicial supervision and support to arbitration.

Arbitration and litigation are the two most common methods for resolving civil and commercial disputes, with the court serving as an important institution to exercise judicial authority. The court has a natural influence on many specific matters in arbitration activities under the laws or direct or indirect regulations. Judicial review of arbitration by the court is an important link in the chain of judicial supervision of arbitration, which refers to the support, review, control, and intervention provided by a country's judicial organs to many matters at various stages of commercial arbitration in accordance with the supervision power granted by law. It represents the supervision and limitation of national judicial power in international commercial arbitration, with the goal of protecting the legitimate rights and interests of arbitration parties, maintaining a fair and just judicial order, and achieving social stability and harmony. (Chen Zhi 2019)

The depth and breadth of judicial review determine how to strike a balance between supervision and support from the courts. While all countries recognize arbitration as a legal dispute resolution mode, domestic courts retain supervision authority over arbitration. Courts in various countries generally stipulate domestic courts' power to examine arbitration to varying degrees in various links, as well as the object, method, and legal consequences of the examination. General arbitration issues, arbitration

agreement, arbitrator's court composition mechanism, arbitrator's qualification, impartiality of arbitration procedure, legality and enforceability of arbitration award are all covered. Due to differences in social environment and legal tradition across countries, there are significant differences in the scope, degree, and outcome of judicial review. Following the long-term development of international commercial arbitration, as well as the increased number of States parties to the New York Convention and the demonstration role of the United Nations Law on International Commercial Arbitration, differences in judicial review have gradually narrowed, and countries have reached some consensus, such as maintaining the independence of arbitration and the principle of party autonomy, limiting excessive interventio Only a few countries permit courts to thoroughly re-examine the substantive issues of arbitration (including fact finding, application of law, admissibility of evidence, etc.). The court's examination of both the entity and the procedure is incompatible with the concept of commercial arbitration autonomy, and it is suspected of squandering judicial and arbitration resources. As a result, most countries require the court to exercise judicial review power as little as possible. (Zhaowei & Qian Fei 2021). This paper uses the expression "judicial review" to discuss the relationship between judicial correction and support for international commercial arbitration in order to apply a concept in theory and practice.

It is critical to define the nature of judicial review in order to correctly understand and deal with the relationship between judicial review and arbitration, as well as to guide judicial review. There are many academic discussions on the practice of arbitration, such as contract theory, judicial theory, autonomy theory, mixed theory, and so on, but there is a lack of in-depth discussion on the nature of judicial review. The arbitration right, as a type of power, is vulnerable to abuse and misuse. In order to maximize interests, especially in a merchant society, the arbitrator with the final decision right is easily corrupted. The arbitration system will be difficult to maintain unless a viable supervision mechanism is established. The parties, the arbitration tribunal, society, and the state are all subjects of arbitration supervision. As the leader of the entire social order, the state supervises and corrects errors and deviations in the exercise of the arbitration right through the examination of judicial organs, protecting the parties' legitimate rights and interests and maintaining the normal order of the arbitration system. Apart from error correction and regulation, the goal of judicial review is to promote the healthy and rapid development of arbitration, as well as to build the umbrella of civil rights alongside other dispute resolution mechanisms such as litigation and mediation. It requires the court to give the most legal support to arbitration in the judicial review process, and to apply arbitration law and other specific standards "tailored" for arbitration to conduct judicial review in order to deal with it in favor of the arbitration system.

### 2.1 Supervision of judicial review

The supervision of judicial review mainly refers to the process in which the court corrects the contents of the arbitration process that do not conform to the legal provisions and violate the will of the parties. It is mainly a process in which the arbitration agreement is valid, the arbitration tribunal is improperly formed, and the arbitration procedure is defective, and other problems are negatively evaluated and corrected by excluding the jurisdiction of the arbitration tribunal, revoking the award, refusing to recognize and execute the award and so on

First, consider the jurisdiction of the arbitral institutions. The court examines and determines the validity of the arbitration agreement based on the legal provisions, whether the arbitration matters are arbitrable, whether the formal and substantive requirements of the arbitration agreement meet the legal provisions, whether the formation of the agreement is the result of the parties' autonomy, and whether the agreement is invalid or invalid. The court decides to exclude the arbitration tribunal's jurisdiction because the arbitration agreement does not meet the legal requirements. (Sun Nanshen & Hu Di 2017) The Model Law uses a parallel review mode for the arbitral tribunal's self-determination jurisdiction. Article 16 paragraph 3 affirms the arbitral tribunal's self-determination jurisdiction while also stating that the court has the authority to rule on the arbitral tribunal's preliminary decisions. The arbitral tribunal may continue the arbitration procedure and make an award during the court review to ensure the arbitration's efficiency and to prevent the parties from intentionally delaying the arbitration. Domestic courts in various countries generally recognize the principle of self-cutting jurisdiction, according to the practice of international commercial arbitration, and the arbitration tribunal makes a decision on the jurisdiction dispute. The court generally conducts an after-the-fact review, which means that it exercises its judicial review authority only after the arbitration tribunal has rendered a decision.

Second, it should be reaffirmed by the arbitration tribunal. Re-arbitration refers to the situation in which the parties object to the arbitration award and the court determines that the arbitration tribunal award has defects that can be remedied through re-arbitration and sends the case back to the arbitration tribunal for re-arbitration. (Wang Zhe 2015). Re-arbitration is a remedy for defects that differs from cancellation of an arbitration award and non-recognition of execution. Its judicial supervision function is weaker than the latter two, and its legal consequences are also less severe. Non-recognition of arbitration effectiveness, denial of execution of arbitration award, and denial of the finality of arbitration results are all examples of cancellation of arbitration awards and non-recognition. Re-arbitration, on the one hand, allows the arbitration tribunal to correct its own flaws, reduces judicial intervention in arbitration, and protects the finality of arbitration; on the other hand, it is also a cost-effective method of relief, consistent with the characteristics of fast, confidential, and cost-effective arbitration. (Zhu Huafang and Guo

Youning 2002)

Third, the arbitral award is subject to judicial review. If the parties disagree with the arbitration award, they can petition the court to have it overturned. According to the law, the court decides whether to cancel or reject the cancellation application, rendering the award null and void. The right of revocation is generally exercised by the court of the country where the award is made, and it is commonly used in various countries as a remedy for arbitration errors. Chapter VII of the Model Law states that applying for cancellation is the only way to pursue the arbitration award, and it specifies the circumstances of arbitration cancellation, such as the parties' opinion that the arbitration agreement is invalid, the notice of procedure is improper, the arbitration tribunal is over-adjudicated, the arbitration tribunal is improperly constituted, and the court believes that it is an arbitrable matter or violates the public policy. The revocation of an arbitral award is an important means of judicial review in many countries, and its use will result in severe legal consequences, which is the denial of an arbitral award's legal effect by a country's judiciary.

Fourth, the application for recognition and enforcement of the arbitral award is subject to judicial review. Arbitration recognition and enforcement are two distinct but related concepts. An award must be recognized before an application for enforcement can be made, but an award recognized by a local court cannot be enforced. In general, various countries' laws stipulate the right of domestic courts and foreign arbitral awards to be recognized and enforced. After receiving the parties' application for recognition and enforcement, the court conducts judicial review and decides whether to recognize and enforce it based on the circumstances. (Tang Yi, 2021). The court's decision-making power is an important means and function of national judicial review. The international legality of foreign arbitral awards is based on the New York Convention of 1958. The New York Convention defines the conditions for award enforcement as well as the legal basis for award non-enforcement, including sensitivity to public order. It has established a critical international legal foundation for the global implementation of international commercial arbitration.

### 2.2 the support of judicial review

The court can correct improper points of arbitration through judicial review, and it can also realize the function of support by guaranteeing and assisting international commercial arbitration. Due to the informal nature of international commercial arbitration, it lacks coercive authority. The operation of a modern society's system is dependent not only on the authority of the parties' contracts and commercial habits, but also on the authority and support of the national judicial system. Support for judicial arbitration is most visible in the following areas:

First, the state recognizes arbitration as a form of dispute resolution. With the successful operation of international commercial arbitration, the International Chamber of Commerce has recognized that

international commercial arbitration can be used as an effective means of social management and dispute resolution, giving arbitration a quasi-judicial nature from a legislative standpoint and recognizing that arbitration tribunals have legal jurisdiction. (Molly, 2018) When a party attempts to exclude the arbitration tribunal's jurisdiction and files an objection with the court claiming that the arbitration agreement does not exist, is invalid, or is not arbitrable, the court will exclude its own jurisdiction and issue a decision in support of the arbitration tribunal if it believes that the objection does not exist after trial.

Second, help to establish an arbitration tribunal. According to the Model Law, if the two parties in arbitration fail to reach an agreement on the arbitrator or the appointment procedure is not followed, the parties may apply to the court, and the court is required to make a decision to assist in the formation of the arbitration tribunal. Because there is no arbitration institution, it is impossible to establish arbitrators using arbitration institution rules, especially in ad hoc arbitration. Many national laws empower courts to appoint arbitrators. When the French rules are applied to arbitration, the parties can apply to the president of the local court for appointment when the arbitration tribunal is difficult to form, according to the French Civil Procedure Law. (Zhang Jian & Hao Ziyi 2018)

Third, take precautionary measures like preservation. There is a litigation preservation system in place to prevent parties from intentionally destroying, concealing, transferring, or losing evidence and property during the course of the case and subsequent execution (Zou Xiaoqiao, 2016). There is also a need to preserve evidence and property during the arbitration process. However, because of the informal nature of arbitration, it lacks the coercive power to impose preservation measures. As a result, most countries grant the court the authority to decide and implement preservation measures in arbitration, and some countries grant the arbitration tribunal the authority to make preservation decisions. (Zhang Congcong,2015).

Fourth, help the arbitral tribunal obtain evidence. Because the arbitration agreement is only binding on the two parties, it cannot bind the third party's behavior, and thus the arbitration tribunal has no authority to collect evidence from the third party. Citizens are required to testify, which is in stark contrast to civil litigation law. (Song Jiafa 2014) Arbitration laws in some countries provide that the arbitration tribunal may apply to the court for assistance, and the court has the authority to decide whether or not a third person may testify or provide evidence.

Fifth, arbitration must be recognized and enforced. Courts recognize and enforce international commercial arbitration awards that comply with the law through judicial review, which is the most active support for arbitration among all countries. The laws of all countries grant their own courts the authority to enforce arbitration awards. Only when the judgment is effectively executed can the parties' rights be realized, and the purpose of arbitration to resolve disputes and protect justice be realized.

## Chapter three The inevitability of the interaction between arbitration and justice under the new mode of modern commercial social governance.

The judicial function includes the legal function and the social function, and the legal function is the noumenon function of judicial activities, such as distinguishing right from wrong, explaining the law to catch up the leak, resolving points to end disputes, protecting rights and interests, controlling power and judging rules, conviction and sentencing, and so on(Yang Xi 2018); The objective social effect produced by judicial activities, such as alleviating social contradictions, promoting social economy, leading social atmosphere, building the rule of law order, and resolving political difficulties, is referred to as the social function of judicature. "Judiciature's social function and social effect can only be realized through legal function."(Feng Fei, 2021 ) The evolution of modern commercial society demonstrates that international commercial arbitration has a strong autonomy in dealing with transnational commercial disputes, which has played a significant role in national justice. The fact that international commercial arbitration is promoted globally in a way that conforms to capital marketization is not only an embodiment of arbitration's own institutional advantages, but also an active choice of international society and national judicial mechanisms. The development of international commercial arbitration has not only realized some functions of assisting judicature, but it has also jointly built a dynamic and diverse developing human society through communication and interaction with the state, society, economy, and law. (Deng Jin, 2007 ).

### 3.1 By balancing the contradiction between merchant society and civil society, the unity of arbitration and judicial value pursuit can be realized.

Because of the nature of judicial arbitration, the emphasis of dispute resolution between them is different: justice focuses on maintaining the fairness and justice of the law, and merchant society has formed different needs in long-term transactions than civil society. It prioritizes the efficiency of dispute resolution and the influence of commercial activities in order to pursue larger interests. When there is a conflict between legal justice and business rules, and fairness and efficiency can't be balanced, a special mechanism is needed to narrow the rift between them and balance the conflict between them. The scope of the arbitration procedure in terms of the parties' autonomy is not limited except by public policies and mandatory laws, and more consideration is given to the parties' wishes and business habits in order to achieve business fairness. At the same time, due to the lack of compulsory execution, the arbitration procedure has to be placed in the national judicial review to seek the support and shelter of the state for arbitration. In order to realize a good social governance model, facing complex commercial disputes, it is a reasonable choice for modern countries to

respond to the crisis of limited judicial resources based on arbitration support as much as possible within the legal limits. (Yongjun Li, 2017)

During the interaction between arbitration and judicature, the participants in arbitration widely spread the habits of merchant society, and the judicature drew lessons from some of them through the examination of arbitration, such as: the pursuit of legal value is not only limited to fairness and justice, but also the realization of efficiency is one of the dimensions of legal value; the widespread application of the principle of party autonomy in the field of arbitration Several shifts in judicial review attitudes, from no review to strict review to the current formal review; The goal of the emergence of international commercial courts is to learn from the relatively mature international commercial arbitration system and provide more dispute resolution solutions for the parties. (Luo Fang 2012) A large number of international commercial arbitration cases not only assist the country in resolving many practical issues, but also have a subtle influence on the judicial system.

In reality, the international commercial arbitration system has successfully used the country to gain a larger stage and market, and national society development cannot be separated from commercial power. Arbitration benefits the commercial service through its own continuous development and running-ins with the judiciary, and it demonstrates a positive trend that the country and the commercial society are working together. Arbitration narrowed the contradiction between the merchant society and the civil society in this process, and made arbitration and justice achieve consistency in realizing the functions of resolving points, ending disputes, and establishing a fair social order. (Song Lianbin, 2018).

### 3.2 Enrich the connotation of arbitration and justice, and realize the integration of justice and efficiency.

International commercial arbitration has been recognized as a dispute resolution mechanism by various countries' laws, and it has become an important member of the civil dispute settlement mechanism, alongside litigation. The distinction between arbitration and litigation is inextricably linked to the debate over efficiency and justice. Efficiency and justice exist at all levels of economic and social life, and their comprehension and interpretation have long been the focus of Chinese and foreign theoretical circles.

The essence of justice is the embodiment of state power in order to maintain a fair and just social order in the country. When a judicial organ backed by state power hears a case, its purpose is to protect all citizens' legitimate rights and interests, so that every citizen has a channel for relief when his or her legitimate interests are harmed, especially in cases with significant social impact, which frequently do not consider the cost. It can be seen that justice is a very expensive public resource that adheres to strict formal requirements and even sacrifices efficiency to some extent. (Xu Dongxin 2017) Arbitration institutions are non-governmental organizations, and the

parties choose arbitration. This option is flexible and autonomous, and it is also an autonomous field that cannot be replaced by judicial trial. (Xi, Yang 2018) The rationality of the scope of judicial review of arbitration awards is critical to achieving this goal. However, the strict legalism of the judicial review system of international commercial arbitration may result in low efficiency, allowing one party to delay the procedure and directly affecting the arbitration system's outstanding advantages, namely the realization of freedom and high efficiency.

The realization of their integration is a global problem, and the boundary point of their integration must be established. It is worth noting that, under certain conditions, justice and efficiency can be mutually transformed. The two are the unity of opposites, mutual penetration, mutual penetration (Yin Zhongxian, 2006). From the standpoint of commodity society development, efficiency is the foundation of justice. Although efficiency improvement will not automatically lead to fairness, it will undoubtedly lay the necessary material foundation for fairness. Fairness, on the other hand, is a guarantee of efficiency. Efficiency cannot be realized without fairness. The fair resolution of commercial disputes has a significant impact on the improvement of economic efficiency.

Fairness and efficiency together form a standard for determining whether a dispute resolution mechanism is excellent or not.(Zhou Wei 2018 ) We need to improve judicial authority in two ways: fairness and efficiency. In the process of competing with international commercial arbitration, litigation has gradually dispelled the inertia created by over-reliance on state power, mobilized competitiveness and self-promotion, continuously improved efficiency in the pursuit of justice, and endowed the parties with some autonomy by optimizing litigation procedures. (Zou Dongxue 2018) Increase the flexibility of the program design, resolve disputes as soon as possible under the premise of rationality and legality when entering the trial procedure, improve the court's efficiency in handling cases, and find the golden section in the balance between justice and efficiency. Through system design, litigation is also organically linked and integrated with the arbitration system, providing a smoother and more reasonable relief mechanism for both parties to the dispute to safeguard their legitimate rights and interests. ( Xue Na 2021).

### 3.3 Change the concept of judicial review and build a new model of modern commercial social governance.

Modern commercial society is a synthesis of commercial relationships based on capitalist production relations and modes of production. The classification of production departments and the social division of labor are becoming more detailed as the market economy develops, and new commercial subjects such as producers and consumers, sellers and consumers, insurers and insured, employers and laborers are coexisting and interdependent. (Xuan Yizhou & Yu Yue 2021) Except for the original for-profit

trading activities, the concept of commercial activities has gradually been expanded, and any business activities related to profit are included, so that businessmen can transfer customary law and dispute resolution between businessmen to other non-commercial fields. (Lin Yi, 2015). Not only has a unique system of merchant law evolved in the commercial society where businessmen and non-businessmen intertwine, but this form of international commercial arbitration has also broken through the boundaries of merchant society and evolved into a dispute settlement solution with universal significance. (Zhaowei & Qian Fei 2021).

The review of international commercial arbitration is an important task of domestic courts. The purpose of judicial review is to make arbitration procedures and awards operate within the scope of the rule of law, and to ensure the fairness and efficiency of arbitration. Countries recognize the importance of international commercial arbitration for international commercial order and the right to speak in international trade in order to compete for international commercial territory. To deal with the market competition of international commercial arbitration, arbitration assists modern commercial society in developing a commercial social order that is in line with the overall interests of the international community while preserving the autonomy of the parties. (Sun Jianli 2020) With the rise of "non-nationalization" theory after World War II, the arbitration procedure was liberated from the shackles of the legal order of the place of arbitration, and the parties had the right to choose the law of the place of arbitration to adjust the arbitration procedure. The rise of online arbitration lessens physical reliance on the location of arbitration. Every country has the opportunity to reform their arbitration laws and adopt a more friendly stance. (Luo Fang 2012) To entice more parties to choose their own arbitration law and gain more market share for their own arbitration institutions and arbitrators, infiltrating their own legal culture into every arbitration and gradually forming the right to speak on the arbitration order and business order.

The marketization of international commercial arbitration and the competition for the right to speak have finally resulted in various countries supporting and recognizing arbitration through arbitration legislation or judicial reform. However, maximum recognition and support for arbitration does not imply a withdrawal of judicial review from the arbitration field. As long as the arbitration award requires the application of national compulsory force, national judicial review is an important tool that should not be overlooked. For the parties, national judicial review not only ensures the parties' authority to choose the civil dispute resolution mechanism, but also serves as the last line of defense for the parties' rights. Judicial review cannot deprive the parties of the ability to seek other remedies in order to protect their will. Simultaneously, in order to adapt to modern society, the concept of judicial review is constantly evolving. Through judicial review, a cooperation mechanism between judicial and international commercial arbitration is established to help

the parties achieve fairness and efficiency, while at the same time, a new order that conforms to the overall interests of society is built. (Chen Zhi 2019)

Party autonomy has established a communication and cooperation mechanism between the law and the economy, as well as between the country and society, and international commercial arbitration has become a bridge between the law and the economy, laying the groundwork for judicial and arbitration to shift from competition to cooperation. The goal of their collaboration is to create a business order that meets the development needs of modern society. International commercial arbitration is based on the parties' autonomy, which can reflect the merchant society's interests, needs, and development foundation. It is an important part of the national and social interest community, and it requires the support of state power. (Deng Jin 2007) On the other hand, the scope of the parties' autonomy must be reasonably limited. If the parties' interest arrangement affects the interests of the state or society, it should be regulated. National international commercial arbitration must be approached logically. The interests of commercial society should be brought into the scope of national and social interests through many interactions between judicature and arbitration, and commercial society should be guided to develop in a direction that conforms to the overall interests of the country and even society, thus forming a new model of international commercial society in a new era.

## Chapter Four Clarify the reasonable boundary between justice and arbitration.

If the parties want to achieve autonomy through arbitration, the basic idea is for them to control the resolution of disputes and avoid state intervention. International commercial arbitration does allow for party autonomy in the arbitration agreement, arbitration tribunal, arbitration procedure, and other links, but party autonomy cannot be realized apart from the national judicial mechanism. Arbitration autonomy is based on the background of national jurisdictions. Arbitration autonomy cannot be realized without the support of national justice. As a result, international commercial arbitration and national judicial mechanisms are mutually constitutive.(Chen Weiqi & Sean, 2014).

Montesquieu stated in ""On the Spirit of Law": "All people in positions of power are prone to abusing their positions, which is a difficult experience for people of all ages." When people in positions of power use their power, they only stop when they reach a limit." The power struggle between judicial and arbitration parties in international commercial arbitration has never ended. It is also necessary to distinguish between arbitration and justice. (Song Baozhen 2020) People tend to focus on the unilateral influence of the judiciary on arbitration when distinguishing between the two, and have an inadequate understanding of the reality of the mutual composition and relationship between arbitration and justice. As a result, the boundary between them must be defined.

It is necessary to clarify how to properly restrict the subject exercising judicial power in the field of party autonomy while studying the boundary between the two. Because, in the field of private law, limiting public power and preventing it from crossing the border is far more difficult and meaningful than reasonable restrictions on the parties' autonomy. (Wang Zuxing 2015).

Many useful explorations have been made on the boundary between judicature and arbitration, both in theory and in practice. In discussing the related concepts of judicial review, moderate, limited, or reasonable supervision is an important factor for judicial supervision to measure the effectiveness of judicial supervision in the context of judicial supervision over arbitration. In the context of judicial support, it emphasizes the judiciary's diverse and multifaceted support for arbitration, and the support must be based on legal provisions while protecting the parties' autonomy. Judicial support does not confirm the effectiveness of arbitration blindly, but rather seeks to recognize the connotation of arbitration. Although the above viewpoint does not define where the boundary is, it has been recognized objectively that the boundary exists and has conducted extensive research on a specific basis. (Chen Weiqi and Zhang Liang, 2014)

### 4.1 Judicial boundaries at the legal level

Domestic and international laws detail the issues, time limits, methods, and outcomes of judicial review. In the United States, for example, it is stipulated in the Federal Arbitration Act that the triggering of limited judicial review is primarily due to the following reasons: (1) the parties have not received notice of arbitration or are otherwise unable to participate in arbitration; (2) matters not stipulated in the arbitration agreement; (3) refusing to accept relevant evidence or refusing to postpone the hearing for justified reasons; (4) committing corruption, fraud, or other misconduct; (5) the arbitrator is related to the parties; and (6) the award is imperfect or uncertain. In Japan, there are more restrictions. The following situations are outlined in Japan's Arbitration Law of 2003: (1) one party is legally incapable; (2) the notice of arbitration or the selection of arbitrators was not received; (3) the parties are unable to defend; (4) there is no enforceable arbitration agreement; (5) failure to conduct arbitration in accordance with the agreement; (6) the matter cannot be arbitrated under Japanese law; and (7) the arbitration procedure or award violates public policy. Thus, judicial review in the United States and Japan is generally limited to procedural issues and does not address substantive issues.(Braslow, 2004). Article 34 of Chapter VII of the Model Law, for example, states that a court may revoke an arbitral award. Only arbitration that meets the requirements can apply for revocation, according to the first paragraph. A party must submit an application and evidence in order to file an application for revocation. The court has determined two cases that are either not arbitrable under the law of the court or conflict with the court's public policy. The time limit for filing an application is three

months after receiving the award, according to paragraph 3. According to the United Nations Commission on International Trade Law's Arbitration Rules (2010), the court and parties may challenge the arbitrator only when "there are circumstances that may give rise to legitimate doubts about the impartiality or independence of any arbitrator." This allows the judicial boundary to be defined in legislation. (Ouyang Qin 2021). In judicial practice, parties in international commercial disputes have numerous options, including litigation, arbitration, mediation, and so on. At the same time, they face the prospect of being ruled by multiple laws at the same time. It is possible to produce a difference in dispute settlement results because the status, psychology, ability, and expectation of the parties in the dispute lead to a difference in their decision-making. In long-term judicial practice, the means, methods, and degrees of judicial arbitration have formed a relatively stable pattern. The relationship mechanism between judicature and arbitration has developed its own characteristics based on the social and economic conditions of each country.(Wen Xiantao, 2021).

### 4.2 Judicial boundaries at the practical level

Long-term judicial practice has revealed judicial boundaries at various stages of the arbitration process, which can be effectively defined and clearly expressed. From a system standpoint, countries typically authorize courts to examine or supervise all aspects of arbitration activities, including arbitration agreements, arbitration tribunal composition, arbitration trial, and arbitration award. For example, in the process of forming an arbitration tribunal, legislation states that if the parties cannot agree on an arbitrator, they may apply to the court for appointment, which is the boundary between justice and arbitration on the appointment of arbitrators. (Zhu Kepeng & Hu Kai, 1996)The Model Law also states that when the court accepts an application to appoint an arbitrator, it must take into account the special agreement and requirements of the parties in the arbitration agreement regarding the appointment of arbitrators. Then, in appointing arbitrators, judicial autonomy takes into account the parties' autonomy. As a result, it can be concluded that in the matter of appointing arbitrators, justice and boundaries are in principle clear. Justice can only play a role when the parties are unable to be autonomous, but boundaries are not always rigid. Boundaries may become flexible when combined with specific cases. Professional arbitration tribunals, for example, are better suited to complex cases in new cases. If the court intervenes to complete the appointment of arbitrators at this time, the court can make a more informed decision based on the facts of the case when faced with the options of direct appointment or entrusted arbitration institution appointment.

### 4.3 Judicial boundaries at the theoretical level

One thing that judicial arbitration and dispute resolution have in common is that the dispute is resolved through the intervention of a third

party. Even though the autonomy of the parties is an important basis for arbitration, the parties cannot resolve the dispute on their own; they require the assistance of a neutral third party. Is it a judicial organ backed by state power or a self-governing arbitration?(Zhang Qun&Niu Zhongjiang, 2008) Because the advantages of arbitration and litigation differ, the parties must make trade-offs in order to realize their rights. With the advancement of human economic attributes, efficiency, cost, and expenses have become important factors to consider when making a decision. Because transnational commercial subjects prefer arbitration to settle disputes, the boundary between justice and arbitration tends to be closer to the efficient side on the basis of ensuring justice.

At the institutional level, the establishment of judicial boundaries in various countries incorporates both objective facts and value judgments. Within the scope of judicial boundaries, the parties' autonomy of will and statutory judicial review confront each other through the effectiveness state of arbitration agreement, the arbitration tribunal and the court compete on jurisdiction and arbitrable matters, confront on interim measures on procedural guarantee, compete for the final adjudication right of specific cases on the way of right relief, and make public policy on the recognition and execution of awards. Aside from judicial review, it belongs to the right granted by the arbitration tribunal under law, which cannot be revoked by the judiciary, and supervision should be avoided at the same time; the issues involved in the judicial review are legal issues, and they are part of the disputes heard by the court. Arbitration is not permitted. To summarize, the theoretical judicial boundary is in the field where justice and efficiency influence each other equally.(Wang Keyu, 2015).

### 4.4 Boundary between International Commercial Arbitration and Justice

The preceding text demonstrates that there is no clear and fixed boundary between arbitration and justice. This paper examines the boundary between arbitration and justice from the standpoints of internationalization and commercial arbitration, focusing on the two's changing processes as a result of the interaction of specific standards and the fluctuation of their scope.

As a result, the judicial boundary in international commercial arbitration refers to treating justice as the primary value while also considering efficiency, taking into account the unique nature of disputes, and allocating dispute resolution resources between arbitration and justice, beginning with legislative authorization and prohibition, reflecting the trade-off between arbitration and justice in various specific systems in terms of justice and efficacy.(Zhang Qun&Niu Zhongjiang, 2008).

In conclusion, this paper overcomes the unidirectional nature of the academic approach to the relationship between arbitration and justice by introducing a two-way interactive research approach to building the same dialogue platform for a comprehensive understanding of the two. The possibility and inevitability of the

boundary between arbitration and justice are examined through the two-way interaction between arbitration and justice. Furthermore, the paper examines the legal, factual, and theoretical boundaries of the judicial boundary before providing a preliminary abstract definition of the boundary between arbitration and justice. This paper can serve as a theoretical reference as well as a research aspect for dealing with the relationship between arbitration and justice in a particular system. The delineation of the boundary between the two at the level of specific institutions and the specific methods of application in judicial practice, as well as other related issues, will be discussed further later.As for the division of the boundary between the two at the specific system level and the specific application methods in judicial practice, related issues are left for further discussion in the future.

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