

Expanding Opportunities for Overseas Enforcement of PRC Judgments and Awards

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There are good reasons for corporates and individuals to be emboldened to pursue overseas enforcement of the People's Republic of China (PRC) judgments and arbitral awards. Joint PRC-Hong Kong legal developments and recent cases in English-speaking common-law jurisdictions, particularly in the United States (U.S.), United Kingdom (U.K.), Canada and Australia ("the key jurisdictions") are encouraging.

Basis for Overseas Enforcement

From January 2024, the China-Hong Kong Reciprocal Enforcement Ordinance allows parties to apply for the mutual recognition and enforcement of a wider range of civil and commercial judgements than the previous 2008 Arrangement.¹ This includes reciprocal enforcement of non-monetary judgments, removal of the requirement that Hong Kong or the PRC must be referenced as the exclusive jurisdiction in the disputed contract, and permits new legal remedies to compel PRC banks to provide information. A few cases have been heard, but no mainland judgments have yet been enforced under the new regime.

Beyond Hong Kong, the key jurisdictions do not have formal bilateral arrangements. Singapore signed a Memorandum of Guidance in 2018, and the Singapore High Court has referenced de jure reciprocity in several cases.² Otherwise, courts in the key jurisdictions rely on the fact that both countries are signatories to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations in 1958 ("the New York Convention"). Common law principles or local statutes (for example, U.S. states refer to the Uniform Foreign-Country Money Judgments Recognition Act) are also important for deciding whether to enforce a PRC award or judgment.³

1 Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Cap. 645) https://www.doj.gov.hk/cap645/en/useful_information/pdf/doj_mainland_judgments_leaflet_en.pdf

2 De Jure reciprocity in judgments recognition and enforcement between China and Singapore?, Asian Business Law Institute, 10 December 2021, <https://abli.asia/judgment-de-jure-reciprocity-in-judgments-recognition-and-enforcement-between-china-and-singapore/>

3 William S. Dodge and Wenliang Zhang, "Reciprocity in China-US Judgments Recognition", 53 Vanderbilt Law Review 1541 (2021) <https://scholarship.law.vanderbilt.edu/vjtl/vol53/iss5/2>

Recent Cases

The following recent cases show that overseas courts are navigating reciprocal recognition of judgments and arbitral awards.

AUSTRALIA

In October 2024, the New South Wales Supreme Court enforced a 2019 Fujian High People's Court judgment awarding a Fujian metals processing company RMB 10 million (USD 1.5 million), plus interest compensation from an Australian individual investor. The investor had failed to meet his capital contribution obligations under a 2011 investment and share trade agreement to fund an oil shale development company in China.⁴

UNITED KINGDOM

In December 2022, the High Court in England and Wales enforced two Hangzhou District Court judgments in favor of two Hangzhou companies, in asset management and trading. The judgments concerned unpaid loans personally guaranteed by an individual residing in the U.K. The individual was ordered to pay approximately GBP 14.8 million (USD 18.1 million), including principal, contractual interest at 24% per annum, and double default interest.⁵

CANADA

In April 2019, a British Columbian court upheld a Tangshan Intermediate Court judgment, concerning an unpaid debt owed to Tong Wei, a coal trader. The debt was owed by a Tangshan real estate company and guaranteed by two individuals who resided and owned property in British Columbia. The court ordered the defendants to pay CAD 16.3 million (USD 12.2 million), and reduced the interest rate from 73% to 60% to comply with Canadian law.⁶

UNITED STATES

In September 2024, the U.S. District Court for the Southern District of California enforced a March 2021 Beijing Arbitration Commission award of RMB 153 million (USD 21 million) over the failure of a Beijing communications company to repay a loan from a Shenzhen Investment Center.⁷

SINGAPORE

In November 2024, the Singapore High Court recognized and enforced a USD 18 million civil monetary judgment from Guangdong against a Singapore citizen. The judgment included principal debt, attorney's fees, notarization fees, and interest.⁸

4 Fujian Rongtaiyuan Industrial Co Ltd v ZHAN [2024] NSWSC 1318, 25 October 2024 <http://www.caselaw.nsw.gov.au/decision/192ac914c987a19206aa8a74>

5 Hangzhou Jiudang Asset Management Co Ltd & Anor v Kei, England and Wales High Court (Commercial Court), 19 December 2022 <https://www.bailii.org/ew/cases/EWHC/Comm/2022/3265.html>

6 Wei v. Li, 2019 BCCA 114, 9 April 2019 <https://canlii.ca/t/hzn29>; "Canadian Update: Wei vs Lei BCCA 114", American College of Investment Counsel, 13 January 2020 <https://www.aciclaw.org/news/2020/canadian-update-wei-vs-lei-bcca-114/>

7 Shenzhen Zehuijin Investment Center v Liu Yingkui et al, Case No. 24-cv-372-MMA-DEB, U.S. District Court Southern District of California <https://us-arbitration.aoshearman.com/siteFiles/47913/2024.09.10%20Shenzhen%20Zehuijin%20Investment%20Center%20v.%20Yingkui,%20No.%2024-CV-%2000372-MMA-DEB%20%28S.D.%20Cal.%20Sept.%2010,%202024%29.pdf>

8 "Chinese Money Judgment Recognized and Enforced in Singapore", Asian Business Law Institute, 7 January 2025 <https://abli.asia/chinese-money-judgment-enforced-in-singapore/>

Identifying Available Information to Strategically Prepare for Enforcement

Assessing whether to pursue recognition overseas is easier to assess with a clear view of a counter-party's asset portfolio in the relevant jurisdictions. Before obtaining a court order, an investigator can help to identify the following types of assets from public databases maintained by government regulated authorities in each of the key jurisdictions.

Type of Asset	HONG KONG	U.S.	CANADA	U.K.	AUSTRALIA	SINGAPORE
Equity in Private Companies	The Hong Kong Companies Register usually shows direct shareholders, but it is not possible to conduct a reverse shareholder check.	Secretaries of State records very rarely show shareholders.	Companies registered with the federal government usually disclose shareholders, but not if registered provincially. Reverse shareholder checks are not possible.	Companies registered in the U.K. are obliged to disclose the majority shareholder to Companies House, and reverse shareholder checks can be conducted.	Companies disclose direct shareholders to the Australian Securities Investment Commission. Reverse shareholder checks can be conducted.	Singapore companies disclose direct shareholders to the Accounting and Corporate Regulatory Authority. Reverse shareholder checks are only possible with the individual's ID number used to register a company.
Equity in Listed Companies	Australian Stock Exchange (>5%)	NYSE, NASDAQ (>5%)	Toronto Stock Exchange (>10%)	London Stock Exchange (>3%)	Australian Stock Exchange (>5%)	SGX (>5%)
Real Estate (with known Address)	Hong Kong Land Registry	State and County Land Registries	Provincial Land Registries	HM Land Registry	State and Territory Land Registries	Singapore Land Registry
Real Estate (with individual owner name only)	Hong Kong Land Registry	Via third party databases	British Columbia Only		State Land Registries (except Victoria)	
Trademarks and Patents	Hong Kong Intellectual Property Department	United States Patent and Trademark Office	Canadian Intellectual Property Office	U.K. Intellectual Property Office	IP Australia	Intellectual Property Office of Singapore
Yachts By Name or Number		U.S. Coast Guard's National Vessel Documentation Center	Transport Canada	U.K. Ship Register (by application)	Australian Maritime Safety Authority	
Aircraft By Tail Number		Federal Aviation Authority	Third party databases	U.K. Civil Aviation Authority	Third party databases	
Vehicles		Dependent on state	Provincial credit bureaus			

Available Information Key: Unavailable Sometimes available Usually available

Checks for Encumbrances and Other Creditors

Assets are most straight-forward to recover if directly, wholly held, and unencumbered. Investigators can help identify encumbrances on identified assets, determine whether other creditors are secured or unsecured, and assess their likely status and influence. Useful sources of information in the key jurisdictions are summarized in the following table:

Checks for Encumbrances and Other Creditors	HONG KONG	U.S.	CANADA	U.K.	AUSTRALIA	SINGAPORE
Bankruptcy/ Insolvency	Official Receiver's Office	Bankruptcy Courts, liens, Uniform Commercial Code filings, U.S. Tax Court	Office of the Superintendent of Bankruptcy	U.K. Individual Insolvency Register	Personal Insolvency Registers	Ministry of Law's Insolvency Office
Enforcement orders and other creditors	Court of Final Appeal, High Court, District and Magistrates Courts, Lands Tribunal and other specialist courts	High Courts, Superior Courts and District Courts	Federal and provincial courts	Supreme Court, Court of Appeal, High Court, Upper and First-Tier Tribunals, Privy Council.	High Courts, Federal Court, State and Territory Courts (including District, County and Magistrates Courts), Federal and State civil and administrative tribunals	Supreme Court, High Courts, Courts of Appeal, Federal Court, International Commercial Court, District and Magistrates Court
Property Liens & Mortgages	Hong Kong Land Registry	State and County Land Registries	Provincial Land Registries	HM Land Registry	State and Territory Land Registries	Singapore Land Registry

Available Information Key:  Sometimes available  Usually available

Primary Differences Between the PRC and the Key Jurisdictions

By contrast with the PRC, in the Key Jurisdictions:

- Property ownership and mortgage records are generally publicly available (though sometimes convoluted to trace).
- Information about company investments and subsidiaries is more difficult to track, and in the U.S. most private companies do not disclose shareholders.
- In Canada, the U.S. and Australia, public information (especially land records) is generally not held at a national level, and so state or provincial level authority records must be separately consulted.
- National registers of vanity assets such as private jets, luxury yachts and high-end automobiles provide details of potential mobile assets held by counterparties, though ownership information is often obscured by offshore holding companies or privacy regulations.
- Since privacy settings on international social media platforms are user controlled, social media is a more valuable resource for asset searching than in the PRC. An individual and/or family members might reveal travel patterns indicating other jurisdictions of interest or properties such as holiday homes. They may also post images of cars, yachts, jets or valuable collections such as art or jewelry.

In all jurisdictions no digital or bank account information is publicly available, and digital assets cannot be traced without a wallet number or digital key.

Other Useful Investigative Avenues

Investigators can also assess whether specific assets have special strategic or sentimental value (for example, property used by family members). Deep web searches, social media analysis and other investigative research can reveal relevant insights about the profile and background of counterparties.

In addition to online tools, investigators can leverage human intelligence gathered from discreet interviews with well-placed local sources. Such sources often provide leads to new research avenues that might otherwise remain undiscovered. For example, a former employee might know of personal assets held by a company director, leading to the discovery of a private jet owned by an offshore company linked to that individual.

If initiated early, asset tracing investigations can also help determine whether dissipation or fraudulent conveyance has occurred. The early stages of a transaction or partnership when communication channels are open, are the best time to think strategically about a counterparty's asset portfolio. This initial analysis can be used as a benchmark to assess potential asset dissipation in the future or at regular intervals over the course of a protracted dispute.

Conclusion

The gradual expansion of reciprocal enforcement regimes and growing recognition of PRC judgments and arbitral awards in major jurisdictions signal a more predictable environment for cross-border recovery. Companies and individuals should consider early asset tracing and enforcement planning as part of their dispute strategy. Engaging advisors experienced in international arbitration, cross-border litigation, forensic accounting, and investigations can enhance the likelihood of successful enforcement.

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