

## International arbitration shifting east – PBBR

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**Market observers have highlighted how Hong Kong and Singapore are becoming increasingly popular jurisdictions for the resolution of arbitral disputes. As we close 2017, it remains clear that some of the biggest countries in Asia continue to be a popular hub for dispute resolution, particularly in international arbitration.**

However, much more is yet to come, notably from China, partly due to its “One Belt, One Road” (OBOR) investment programme, which includes measures that will hopefully have an impact on the economies of the countries involved, as well as on the way disputes arising from the programme will be resolved.

The OBOR programme represents China’s plan for global trade. The initiative is meant to develop two major trade routes connecting Europe, Africa and the Asia-Pacific.

It is said that, since 2013, the investment in the economies along those trade routes has already reached more than \$50 billion, particularly in large-scale energy, rail, road and telecommunications infrastructure projects. To put the programme in practice, the OBOR includes a list of 68 countries, so far, including East Timor and this will result in the injection of approximately \$990 billion in those countries.

Although Portugal and other Portuguese-speaking countries – except East Timor – are not yet covered by the OBOR initiative, the Portuguese Government and the Chinese Government have already triggered negotiations aimed at making Portugal a member of this partnership with China. To date, the latest forums of discussion have led to the understanding that Portugal may well be an important partner in this initiative.

As far as international arbitration is concerned, the Supreme People’s Court in China held a judicial conference with senior judges from 16 jurisdictions, with the purpose of establishing a dispute resolution mechanism. It seems that a commercial arbitral tribunal is being considered in order to provide the parties of OBOR countries with fair, efficient and low cost legal services. There is also a wish to use mediation to resolve those disputes.

Investment often results in disputes. It seems inevitable that the cooperation between jurisdictions will entail one or more cross-border elements and this will require finding the best dispute mechanism to treat future disputes. One must be conscious that disputes to be decided in a particular court are to be avoided when a decision of that court cannot be enforced in the country where the losing party is located. International arbitration may play an important role here. Litigators know that international arbitration is often the most adequate form of ADR for resolving cross border disputes, notwithstanding other alternatives such as negotiation and mediation.

It is time now to pay attention to the next steps of the OBOR programme and ensure that Portugal becomes an important part of it. Whether or not international arbitration will play a key role as a chosen dispute resolution mechanism – and how it will work in practice – remains to be seen.

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