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The Application of the Competence-Competence Principle in Asia-Pacific Jurisdictions: A Comparison among Mainland China, Hong Kong SAR and Singapore

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As a widely accepted principle, the competence-competence principle in international commercial arbitration allows arbitrators to determine their own jurisdiction. This article focuses on the legislation and cases in mainland China, Hong Kong SAR and Singapore in Asia-Pacific Jurisdictions, a rising and highly competitive region in arbitration. The article provides an overview of the status of applying the competence-competence principle, then compares the application in the three jurisdictions. The comparison is addressed in the standard of interlocutory judicial review, and the allocation of competence between state courts and arbitral tribunals for jurisdictional challenges. By examining the current dilemma and considering international instruments in practice, this article further proposes a harmonised way to solve the potential conflicts caused by various approaches taken by different jurisdictions in support of the efficiency of international commercial arbitration.

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