

Two Arbitration Centers in Shenzhen, China combined into Shenzhen Court of International Arbitration

January 4, 2018

On December 25, 2017, the Government of Shenzhen, China (specifically the Committee of Institutions Organization) announced that the previous Shenzhen Court of International Arbitration (“SCIA”) and Shenzhen Arbitration Commission will be combined into one arbitration center named Shenzhen Court of International Arbitration. The combination indicates Shenzhen’s ambition to become a modernized hub in Southern China for domestic and international arbitration. It also comes amidst China’s effort to build itself as an international seat of arbitration on the heels of the “one belt one road” initiative.

Background

Although both based in Shenzhen, the SCIA and the Shenzhen Arbitration Commission had different origins. The SCIA was previously a sub-commission of China International Economic and Trade Center (“CIETAC”) before it announced its independence from CIETAC on 22 October 2012 (following a similar announcement of independence from CIETAC by the former sub-commission of CIETAC in Shanghai on 8 April 2012). Since then it has published its own arbitral rules and begun to administer cases submitted to SCIA while continuing to accept and administer cases submitted to “CIETAC South China/Shenzhen.”¹ On the other hand, the Shenzhen Arbitration Commission was established by the Shenzhen Government in 1995. The Shenzhen Arbitration Commission has its own set of arbitration rules, which is closer to the Chinese Civil Procedures than commonly used arbitration rules in international arbitration.

Both the SCIA and the Shenzhen Arbitration Commission had the jurisdiction to handle contract-related or other types of commercial disputes between parties, including both Chinese and non-Chinese parties. On December 1, 2016, the SCIA promulgated its new arbitration rules largely based on the UNCITRAL Rules (being the first Chinese arbitral institution doing so) and expanded its jurisdiction to also include investor-state arbitration.

Implications

As indicated by the Shenzhen Government, after the combination of the two arbitration institutions, arbitration cases submitted to either one of them will be handled by the SCIA. It is unclear whether that means the arbitration rules of SCIA will also apply to cases that the parties had agreed to submit to the Shenzhen Arbitration Commission and whether the SCIA’s panel of arbitrators – more than one third of whom are foreign nationals – would be used for those cases. How the combination may be squared with the parties’ agreement remains to be seen and tested in practice.

That being said, the combination means that going forward, a set of arbitration rules on par with international standards may be applied to a wider range of cases, which in turn reflects Shenzhen’s

¹ After almost three years of uncertainties with respect to the jurisdiction of SCIA over arbitration cases submitted to “CIETAC South China/Shenzhen”, the Chinese Supreme Court finally made it clear on July 15, 2015 that an arbitration commenced pursuant to an arbitration agreement specifying “CIETAC, Shenzhen” should, where the agreement was concluded before 22 October 2012, be submitted to SCIA.

ambition to become a regional modernized hub for dispute resolution in Southern China. The combination also comes amidst China's effort to enhance its major arbitration institutions, which apart from SCIA, also include CIETAC and its sub-commissions in Shanghai, Shenzhen, Tianjin, Chongqing, Hangzhou, Wuhan and Fuzhou, the newly established CIETAC Hong Kong Arbitration Center, and the Shanghai International Economic and Trade Arbitration Commission, with the goal of making China an international seat of arbitration on the heels of the "one belt one road" initiative.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

Martin Rogers	+852 2533 3307	martin.rogers@davispolk.com
James Wadham	+852 2533 3309	james.wadham@davispolk.com
Jonathan K. Chang	+852 2533 1028	jonathan.chang@davispolk.com
Lisa Martin	+852 2533 3371	lisa.martin@davispolk.com
Jing Kang	+852 2533 1037	jing.kang@davispolk.com

© 2018 Davis Polk & Wardwell, Hong Kong Solicitors | The Hong Kong Club Building | 3A Chater Road | Hong Kong

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's [privacy policy](#) for further details.