

We have been aware of the increasing popularity of arbitration as a means of resolving transnational disputes. The release of key statistics by HKIAC and SIAC confirm this trend.

HKIAC: Case Statistics 2017

Since its establishment in 1985, the Hong Kong International Arbitration Centre (HKIAC) has been regarded as the dispute resolution centre of choice for disputes arising between Chinese and non-Chinese parties.

In a report published earlier this year, HKIAC released its caseload statistics for 2017. In that publication, HKIAC reported the highest ever number of cases administered at the centre, with 532 new cases filed (a 15.7% increase from 2016).

Of those new cases:

- 297 were arbitrations
- 156 arbitrations were administered by HKIAC under the HKIAC Administered Arbitration Rules or the UNCITRAL Arbitration Rules (a 66% increase from 2016)¹
- The total amount in dispute was approximately US\$5 billion, a dramatic rise from the US\$30.6 million average
- Parties from 39 jurisdictions participated in HKIAC arbitration, with Hong Kong, mainland China and Singapore continuing to be the most commonly represented
- HKIAC-registered disputes arose from a wide range of sectors:
 - Disputes related to international trade were the most popular to be administered at the centre, with the number of cases rising from 10.8% in 2016 to 31.9%
 - Construction disputes were the second most popular (19.2%) and corporate disputes third (13.5%)
- HKIAC granted 11 of 15 applications for expedited procedures, which were submitted under Article 41 of the 2013 HKIAC Administered Arbitration Rules

SIAC: Case Statistics 2017

The Singapore International Arbitration Centre (SIAC) was established in 1991, in response to demands on the international business community, to produce efficient and reliable dispute resolution.

SIAC's operations are overseen by a board of directors consisting of well-respected lawyers and corporate leaders from India, China, the UK, Korea and Singapore. The centre is now well established and continues to receive new cases on a constant basis.

SIAC's most recent caseload statistics also reveal that, in 2017, SIAC had its highest number of new filing (452) and administered (93%) casings.

By way of total number of new cases handled by SIAC, 2017 saw a 32% rise as compared to 2016. In fact, SIAC's caseload continues to grow year on year, increasing by more than five times in the last decade.

In 2017:

- The aggregate sum in dispute for all new case filings amounted to US\$4 billion.
- Parties from 58 jurisdictions participated in SIAC arbitration, with India and China being the most significant caseload contributors. SIAC's top 10 foreign user rankings also include new entrants from Europe and the Middle East, highlighting SIAC's global appeal to users from diverse legal systems and cultures.
- SIAC-registered disputes arose from a wide range of sectors:
 - Disputes related to international trade were the most popular to be administered at the centre (31%)
 - Commercial disputes were the second most prevalent (22%) and maritime/shipping disputes third (20%)
- SIAC granted 55 of 107 applications for expedited procedures.

¹ This is the highest number of cases it has managed since the centre first started to publish statistics in 2009 and a 66% rise on the number of cases it managed in 2016.

Both HKIAC and SIAC share highly sought-after features that make them ideal centres for resolving disputes related to the “Belt Road Initiative” (BRI). These features include:

Experience

HKIAC’s increasing volume of cases has necessitated a high degree of efficiency when dealing with what are often complex, high-value, multi-party, multi-contract, cross-border transactions. To that end, HKIAC’s experience in administering arbitrations makes it a logical forum for resolving disputes arising out of the BRI. In fact, one-third of the cases HKIAC handled in 2017 involved a mainland Chinese party and a party from a BRI jurisdiction.

Affordability

Under the HKIAC Rules, parties can choose whether to pay the tribunal an hourly rate or according to a scale that is calculated based on the amount in dispute.

SIAC is understood to be the most cost-competitive option for both sole-arbitrator and three-arbitrator cases.

Enforcement

HKIAC and Hong Kong-based awards have a strong enforcement rate, by virtue of the 1999 Arrangement Concerning Mutual Enforcement of Arbitral Awards between Hong Kong and China.

Hong Kong and Singapore are also signatories to the 1958 New York Convention (on the Recognition and Enforcement of Arbitration Award) (New York Convention), meaning both HKIAC and SIAC can provide users with a final binding decision, enforceable in more than 150 countries globally.

With close proximity to mainland China, Singapore, like Hong Kong, is supported by a physical, legal and political infrastructure that is of high integrity, making it a go-to jurisdiction for parties looking to meet their Chinese counterparties half way.

We note that 92% of BRI jurisdictions have already ratified the New York Convention, meaning that arbitration is the most viable dispute resolution tool for cross-border transactions under the BRI.

Efficiency

As is the case with SIAC, the HKIAC Rules 2013 allow multiple arbitrations to be consolidated, additional parties joined, and single arbitrations to be commenced under multiple contract.

Neutrality and Independence

Hong Kong enjoys a unique position of being part of China whilst still maintaining a separate and independent legal system based on common law that is overseen by an independent judiciary.

Similarly, Singapore is an independent, geographically neutral third-country venue that provides parties with an attractive venue for resolving disputes.

Both Hong Kong and Singapore also boast legal systems that are overseen by decidedly pro-arbitration, independent judiciary, Hong Kong’s being ranked first in Asia for judicial independence for the past 24 years.

Conclusion

Due to the increasing demand for arbitral administration services as a result of projects such as the BRI, we expect to see a continued rise in arbitration centres’ yearly caseloads. With that rise, it will be interesting to observe the strategies adopted by centres such as HKIAC and SIAC, as they look to ensure that arbitration remains the favoured method of resolving disputes in international commerce.

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