

## SECTOR WATCH

# IAMA lends helping hand to local arbitrators

As inward foreign investment and outbound investment continue to grow rapidly, the practice of dispute resolution has become increasingly important. Arbitration, the preferred method for handling disputes by large and multinational companies, is an area to watch.

Currently, there are 189 domestic arbitration commissions, and the China International Economic and Trade Arbitration Commission (CIETAC) is one of the leaders in resolving disputes involving foreign investors.

More than 1,000 qualified arbitrators, of which more than a quarter are foreigners from over 30 countries and regions, are listed on CIETAC's arbitrator panel. In 2005, the panel handled 979 arbitration cases, with a total value of US\$1.51bn, which represents a 50% increase on last year's figure.

The arbitration industry has attracted considerable attention from both outside and within China. The country has the potential to become a significant source of future arbitration work and a centre for international arbitration.

Last month, the Institute of Arbitrators & Mediators Australia (IAMA), as part of the Attorney General and Australian Legal Services' Mission to China, visited CIETAC's office in Beijing and met with Jianlong Yu, vice chairman and secretary-general of CIETAC.

Ian Nosworthy, past president of IAMA and the only alternative dispute resolution representative in the Mission, introduced the position and role of IAMA in Australia, and discussed a joint venture training proposal with the heads of CIETAC.

He is also talking with the Shanghai Arbitration Commission with regard to a similar proposal.

In fact, IAMA has struck an historic agreement – a first for both countries – with the Shenzhen Arbitration Commission (SZAC), which is ranked third among all the arbitration commissions in China.

The memorandum of cooperation involves joint activities that include research and development programs, and professional training. So far, 23 arbitrators or judges from Shenzhen have benefited from the training program run by IAMA.

"They [Chinese arbitrators] made it clear that international trading is a big issue for them and showed great interest in the training programs. They're keen to have disputes resolved sensibly, which is an important part of trading," said Nosworthy.

"They're well aware that their system is not as advanced as western systems. However, they're learning very fast. It's amazing how much they could learn during the two-week training," said Nosworthy, who eagerly awaits the outcome of the training.

The agreement is also beneficial to IAMA. "We can provide our members with more access to various international arbitration panels," Nosworthy said. He believes there is the potential for an exchange between arbitrators from China and Australia.

However, while a number of improvements have been introduced by the 2005 CIETAC rules – for example, parties can choose a non-CIETAC arbitrator and amend CIETAC's rules if both parties agree – enforcing international arbitral awards locally is still an issue. **ALB**



Members of the Attorney General and Australian Legal Services' Mission to China

## IAMA向本地仲裁员伸出援手

随着向内的外商投资和国家对外投资继续迅速增长，争议解决这一门更显得重要。仲裁，大型及跨国公司解决争议更理想的方法，正是焦点所在。

现时国内共有189家的仲裁中心，其中中国国际经济贸易仲裁委员会(CIETAC)是涉外争议仲裁中的佼佼者。

CIETAC的仲裁员名单上罗列了超过1,000个仲裁员的名字，当中超过四分之一来自超过30个国家和地区。2005年，委员会的仲裁员处理了979个仲裁案件，其所涉总金额达15.1亿美元。这数字比去年的多出一半。

仲裁行业吸引国内外人士的注意。国家有潜力成为仲裁工作的重要来源及成为国际仲裁中心。

上月，作为澳洲律政司及澳洲法律服务使团的访华活动之一，澳大利亚仲裁员及调解员协会(IAMA)亲访CIETAC北京办事处，并与CIETAC的副主席兼秘书长于健龙先生会面。

IAMA的前任主席及代表团唯一的另类争议解决代表Ian Nosworthy向CIETAC的领导介绍澳洲IAMA的角色和地位，并进行了有关合作培训计划的探讨。

Nosworthy也同时与上海仲裁委员会进行了类似的建议和讨论。

事实上，IAMA已与去年同深圳仲裁委员会(SZAC)订立了首次历史性的协议，SZAC是中国第三大仲裁中心。

合作备忘录的内容包括进行共同研究、发展项目及专业培训。直至现时止，深圳的23名仲裁员及法官已参加IAMA的培训计划并获益良多。

"他们[中国仲裁员]明确肯定了国际贸易对中国的重要性，并对培训计划表现出浓厚的兴趣。他们十分希望以明智的方法解决争议，因为这对贸易是非常重要的，"Nosworthy说。

"他们深知他们的制度并不如西方的完善和先进，但他们学习神速，他们在两周的学习进度实在令我惊叹，"Nosworthy说他很满意培训的成果。

此协议对IAMA亦有裨益。"我们的会员可藉此接触更多不同的国际仲裁员，"Nosworthy相信即将会有中国及澳洲仲裁员的人员交流活动。

然而，虽然自2005年引进新的CIETAC规则起，仲裁规则已有多方面的改善 - 比如修改后仲裁方有权在双方同意的基础上自行选择非CIETAC的仲裁员及修改仲裁中心的规则，但在当地执行国际仲裁裁决仍然是一个难题。