

SCIA

SCIA and Recent Development of China's International Arbitration

Dr. Xiaochun LIU

President of Shenzhen Court of International Arbitration

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Preliminary Issue

International community's main concerns about arbitration in China

- Independence
- Party Autonomy
- International Accessibility

What are the endeavors by SCIA to address these concerns?

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- I** | SCIA's Reform on Governance Structure
- II** | SCIA's Innovations on ADR Rules
- III** | SCIA's International Network and Hearing Facilities

PART I

SCIA's Reform on Governance Structure — from China's first statutory body legislation

China's First Statutory Body Legislation

SCIA set up corporate governance structure by a unique statutory-body legislation in 2012

- to enhance independence, neutrality and impartiality of arbitration
 - to prevent administrative intervention
 - to avoid local protectionism
 - to avoid insiders' control

Regulations on Shenzhen Court of International Arbitration

- Article 6 – At least one third of the Council members shall come from foreign jurisdiction

Corporate Governance Structure of SCIA

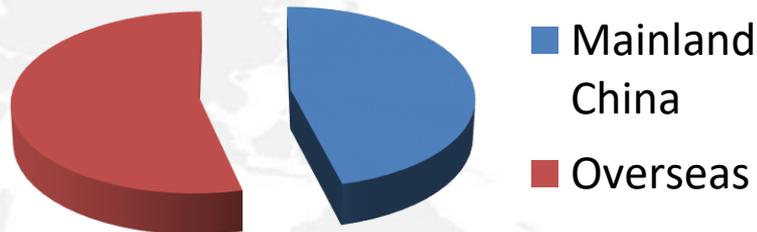
Regulations on Shenzhen Court of International Arbitration

- Article 5 – The Council of SCIA shall be the decision making body.
- Article 8 – Responsibilities of SCIA covers, *inter alias*, the following:
 - (1) making and amending AoA, arbitration rules and other dispute resolution rules,
 - (2) nominating the executive management;
 - (3) deciding on the panel of arbitrators;
 - (4) reviewing the annual report and financial budget;
 - (5) structuring internal departments; and etc.

Council of SCIA: International Governance Structure



SCIA Council Members



The Council of SCIA: 7 of 13 members are from overseas jurisdictions, including two former HK Secretary for Justice

The Settlement of the Largest Arbitration Case in China



- Biggest arbitration case in China's arbitration history.
- Dispute amount: **RMB 13.4 billion (USD 2 billion)**
- Parties: from China and the U.S.A.
- Representatives: from **five** countries and regions.

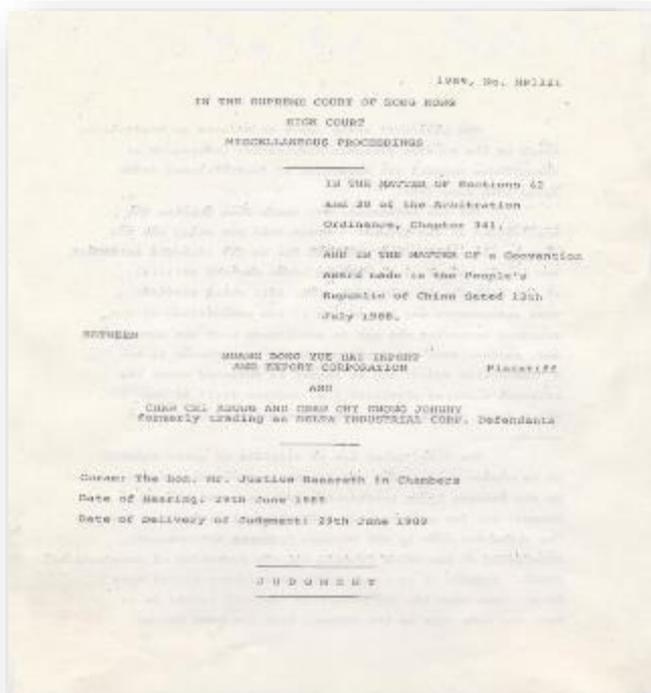
Negotiation
Facilitation
(6 days)

Arbitration
(7 days)

Arbitral
award
rendered

Settled
within 13
days

The First China's Arbitral Award Enforced according to the *New York Convention*



A Milestone Award

- **SCIA arbitral award enforced by High Courts of Hong Kong in 1989.**
- **The FIRST Chinese arbitral award enforced outside Mainland China according to the New York Convention.**
- **The FIRST foreign arbitral award enforced by Hong Kong courts as per *New York Convention*.**

The First Ceremony for the 60th Anniversary of New York Convention held in Shenzhen



Ms. Anna Joubin-Bret

**UNCITRAL and SCIA jointly held the first ceremony for the 60th Anniversary of New York Convention
On 15 May 2018, at Shenzhen**

Enforcement of SCIA's Arbitral Awards in Hong Kong

Year	Number of Enforced Mainland Arbitral Awards	Number of SCIA's Enforced Arbitral Awards	Number of Not Enforced Mainland Arbitral Awards	Number of SCIA's Not Enforced Arbitral Awards
2012	6	2	0	0
2013	8	2	0	0
2014	13	5	0	0
2015	8	2	2	0
2017	17	7	0	0
In total	52	18	2	0

Data as of end of 2017 provided by HK Judiciary

Enforcement of SCIA's Arbitral Awards in Hong Kong

➤ Summary

- ✓ SCIA's enforced arbitral awards in Hong Kong accounted for **31.4%** of the total number of Mainland China during the period of 2012 through 2015, ranking the top among Mainland arbitration institutions.
- ✓ In 2017, SCIA's enforced arbitral awards in Hong Kong ranked the top among **ALL** arbitration institutions, accounting for **41.2%** of the total number of Mainland China awards of 2017.
- ✓ Since the handover of Hong Kong, no SCIA arbitral award was refused to enforce according to the *Arrangement*.

PART II

SCIA's Innovations on ADR Rules

— introducing optional appellate arbitration mechanism to China

SCIA's 2019 New Set of Rules

➤ SCIA Arbitration Rules

- SCIA Arbitration Rules
- SCIA Arbitration Rules for Financial Loan Dispute
- SCIA Guidelines for the Optional Appellate Arbitration Procedure
- SCIA Guidelines for the Administration of Arbitration under the UNCITRAL Arbitration Rules
- SCIA Rules of Maritime and Logistics Arbitration
- SCIA Online Arbitration Rules



**Is finality of single-instance arbitration
flawless?**



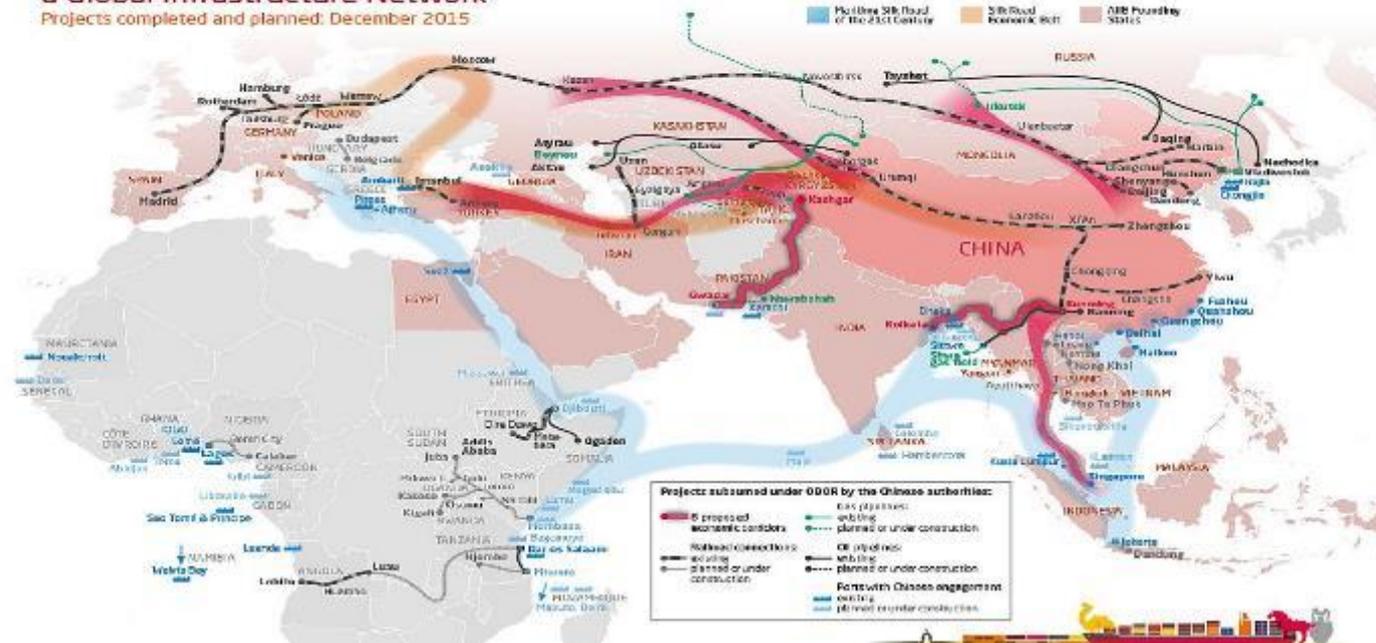
**Is finality of single-instance arbitration
the sole option?**

Belt & Road and the Greater Bay Area

MERICS China Mapping

One Belt, One Road: With the Silk Road Initiative, China Aims to Build a Global Infrastructure Network

Projects completed and planned: December 2015



(Source: Mercator Institute for China Studies)

Finality of Single-instance — Not an Absolute Principle

允许仲裁上诉的法域 Jurisdictions that allow appellate procedures	立法或案例 Laws or Cases
英国 United Kingdom	《英国仲裁法》第58条 Article 58 of UK Arbitration Act
荷兰 Netherlands	《荷兰民事诉讼法典》第三编第1050条 Article 1050, Section 3 of Dutch Code of Civil Procedure
法国 France	《法国民事诉讼法典》采双轨制 French Code of Civil Procedure
新加坡 Singapore	《新加坡国际仲裁法》采双轨制 Singapore International Arbitration Act
香港 Hong Kong SAR, China	《香港仲裁条例》第73条 Section 73, Arbitration Arbitration Ordinance
澳门 Macau SAR, China	澳门第29/96/M号法令第34条 Paragraph 1, Article 34 of Macau Decree-Law No. 29/96/M
印度 India	Centrotrade Minerals & Metals Inc. V. Hindustan Copper Ltd.

Overseas Practice of Internal Appeal Mechanisms in Arbitration

代表機構仲裁規則 Arbitration Rules of Representative Arbitration Institutions	模式 Models
美國仲裁協會選擇性上訴仲裁規則 Optional Appellate Arbitration Rules, American Arbitration Association (AAA)	opt in
衝突預防與解決國際協會上訴仲裁程式 Appellate Arbitration Procedure, International Institute for Conflict Prevention and Resolution (CPR)	opt in
巴黎國際仲裁院程式規則 Procedural Rules, International Arbitration Chamber of Paris (IACP)	opt out
西班牙仲裁院仲裁二審程式 Second Instance Arbitration, Spanish Court of Arbitration (SCA)	opt in
歐洲仲裁院仲裁規則 Arbitration Rules, European Court of Arbitration (ECA)	opt out
穀物和飼料貿易協會、國際油、油籽和油脂協會、咖啡貿易聯合會、倫敦稻穀經紀人協會等國際性行業組織的仲裁規則 Arbitration Rules of international industrial associations such as GAFTA, FOSFA, CTF, LRBA	opt out
國際投資爭端解決中心仲裁規則 Arbitration Rules, International Centre for Settlement of Investment Disputes (ICSID)	仲裁內部裁決撤銷機制 Internal Annulment Proceeding

Chapter VIII Arbitral Award of SCIA Rules

➤ Article 51 Rendering of Arbitral Award

8. The arbitral award is final and binding upon the parties, except for cases in which the parties agree to apply the Optional Appellate Arbitration Procedure. The effectiveness of such arbitral award shall be determined according to article 68 of the Rules and the “Guidelines for the Optional Appellate Arbitration Procedure of the Shenzhen Court of International Arbitration”.

Chapter X Miscellaneous of SCIA Rules

➤ Article 68 Optional Appellate Arbitration Procedure

1. Unless prohibited by the laws of the place of arbitration, where the parties have agreed on submitting to the SCIA for appellate arbitration in respect of the award rendered by the arbitral tribunal according to Chapter VIII herein, their agreement shall prevail. The optional appellate arbitration procedure shall not apply to the expedited procedure of the Rules.
2. The optional appellate arbitration procedure shall be conducted in accordance with the “SCIA Guidelines for the Optional Appellate Arbitration Procedure”.

SCIA Guidelines for the Optional Appellate Arbitration Procedure

➤ Article 2 Scope of Application

Unless prohibited by the laws of the place of arbitration, the Guidelines shall apply where the parties agree that the award rendered by the arbitral tribunal according to Chapter VIII of the Arbitration Rules (hereinafter, the “Original Award”) may be submitted to the SCIA for appellate arbitration in accordance with Article 68 of the Arbitration Rules.

SCIA Guidelines for the Optional Appellate Arbitration Procedure

➤ Model Clause

Any dispute arising from or in connection with this contract shall be submitted to the Shenzhen Court of International Arbitration (the SCIA) for arbitration. The parties grant each other the right to appeal to the SCIA against the award or awards rendered by the arbitral tribunal. The appellate tribunal renders the final award. The place of arbitration shall be _____ . (State the country or jurisdiction where the Appellate Arbitration is not prohibited)

PART III

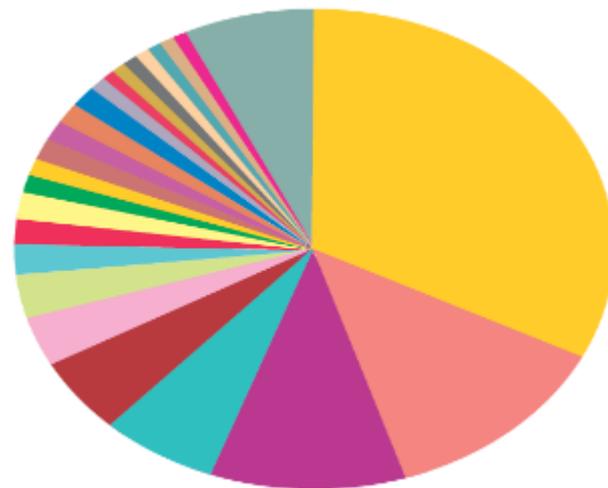
SCIA's International Network and Hearing Facilities

International Panel of Arbitrators

深圳经济特区特邀仲裁委员名单 (按姓氏笔划为序)		LIST OF MEMBERS SPECIALLY INVITED FOR THE SHENZHEN SPECIAL ECONOMIC ZONE	
姓名	专长	NAMES	EXPERTISE
阮北耀	国际私法, 国际经济贸易法 (香港执业律师)	PHILIP F. Y. YUEN	International Private Law, International Economic and Trade Law (Solicitor, Hongkong)
孙城曾	国际经济贸易	SUN SENG-TSANG	International Economy and Trade
陈子灼	国际仲裁, 国际私法 (香港执业大律 师)	PETER C. K. CHAN	International Arbitration, International Private Law (Barrister-at-Law, Hongkong)
何世柱	国际经济贸易	HO SAI-CHU	International Economy and Trade
郑正训	国际经济贸易	GRAHAM C. H. CHENG	International Economy and Trade
郭宜兴	国际经济贸易		
彭思梅	国际经济贸易法		
廖瑞珠	国际私法, 国际经济贸易法 (香港执业律师, 公证人)		
(以上来自港澳地区)			
陈丽中	国际经济贸易法, 国际经济贸易仲裁		
张灵汉	国际私法		
李泽沛	国际经济贸易法		
宋毅英	国际经济合作, 工业产权法,		
周煥东	国际经济贸易法		
罗镇东	工业产权法, 国际商法		
梁红莉	民法, 国际经济贸易法 (以上来自深圳地区)		

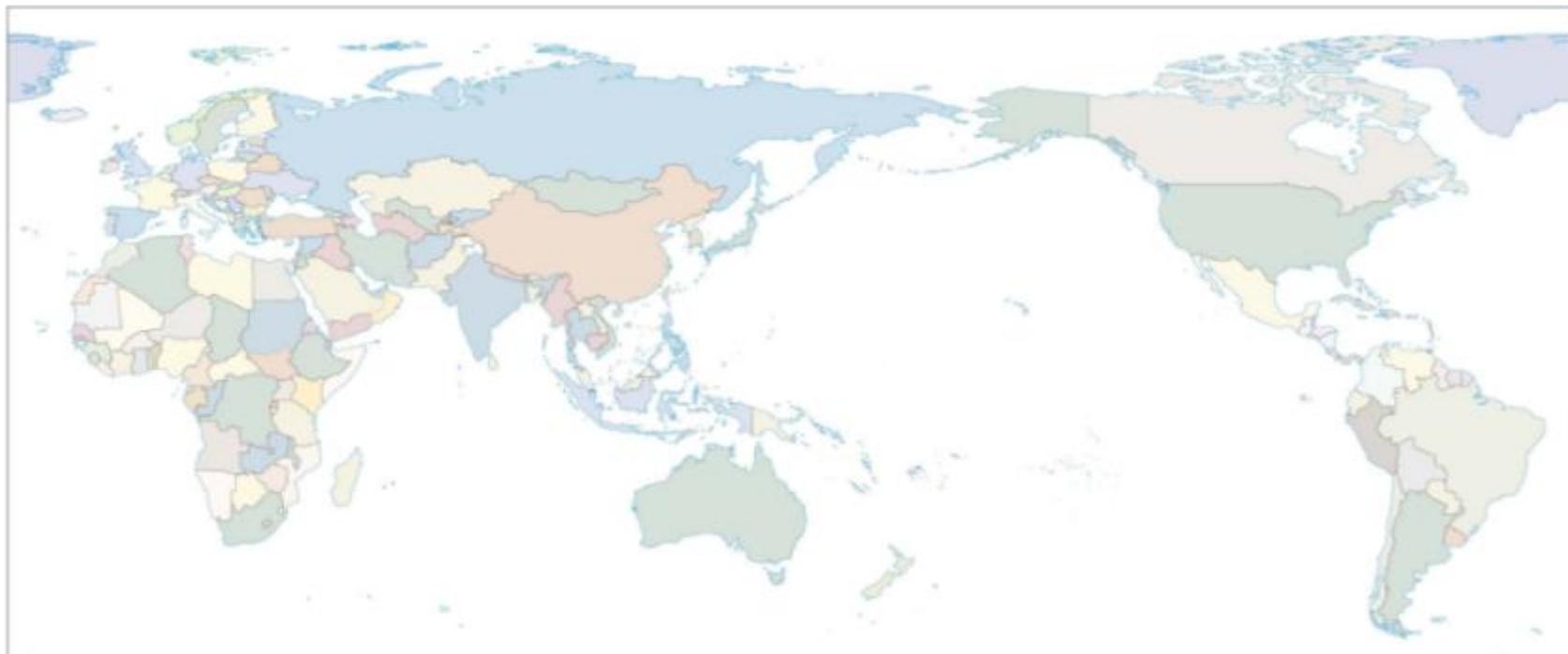
SCIA in 1984: the first Chinese arbitration institution to include panel arbitrators from outside jurisdictions. 8 out of 15 arbitrators are from overseas.

International Panel of Arbitrators



- ◆ 890 arbitrators from 76 countries and regions
- ◆ 360 foreign arbitrators: 40.5% of the Panel

International Panel of Arbitrators



Parties that have used SCIA's arbitration and mediation service come from 119 countries and regions.

SCIA's International Network





On 17 October 2017, Alexis Mourre, President of the ICC International Court of Arbitration led a delegation to visit SCIA and signed a MoU with SCIA.



On 21 Nov 2017, SCIA delegation visited MCCI and MARC, and signed cooperation agreement



On 21 Nov 2017, SCIA delegation visited MCCI and MARC, and signed cooperation agreement.



ICSID and SCIA signed cooperation agreement on 26 June 2018



SCIA visited JAMS at New York on 27 June 2018



On 27 June 2018, SCIA held the Seminar “Is International Arbitration in China Impartial” at New York and around 121 representatives from US legal and business communities attended



On 28 June 2018, at the invitation by UNCITRAL, SCIA attended the ceremony for 60th Anniversary of New York Convention at UN headquarters



On 24 August 2018, SCIA signed a MOU with SIAC at the 9th Meeting of the Singapore Guangdong Collaboration Council



On 27 September 2018, under the support by Supreme People's Court, SCIA Kashi Hearing Centre & SCIA One Belt One Road Dispute Resolution Centre were established



On 15 October 2018, Council Member Prof. Peter Malanczuk led SCIA delegation to attend Bali Arbitration Summit



On 23 Oct 2018, SCIA and JAMS jointly held Dispute Resolution Summit for China-US Technology Companies and issued joint Panel of Arbitrators



On 1 November 2018, SCIA, ASA and SCAI jointly held the seminar of “OBOR and Offshore Arbitration—Challenges and Opportunities for Chinese Enterprises”



On 2 July 2019, SCIA and HKIAC signed a Closer Cooperation Agreement to deepen collaboration



On 7 August 2019, SCIA delegation was invited to attend the signing ceremony of Singapore Mediation Convention

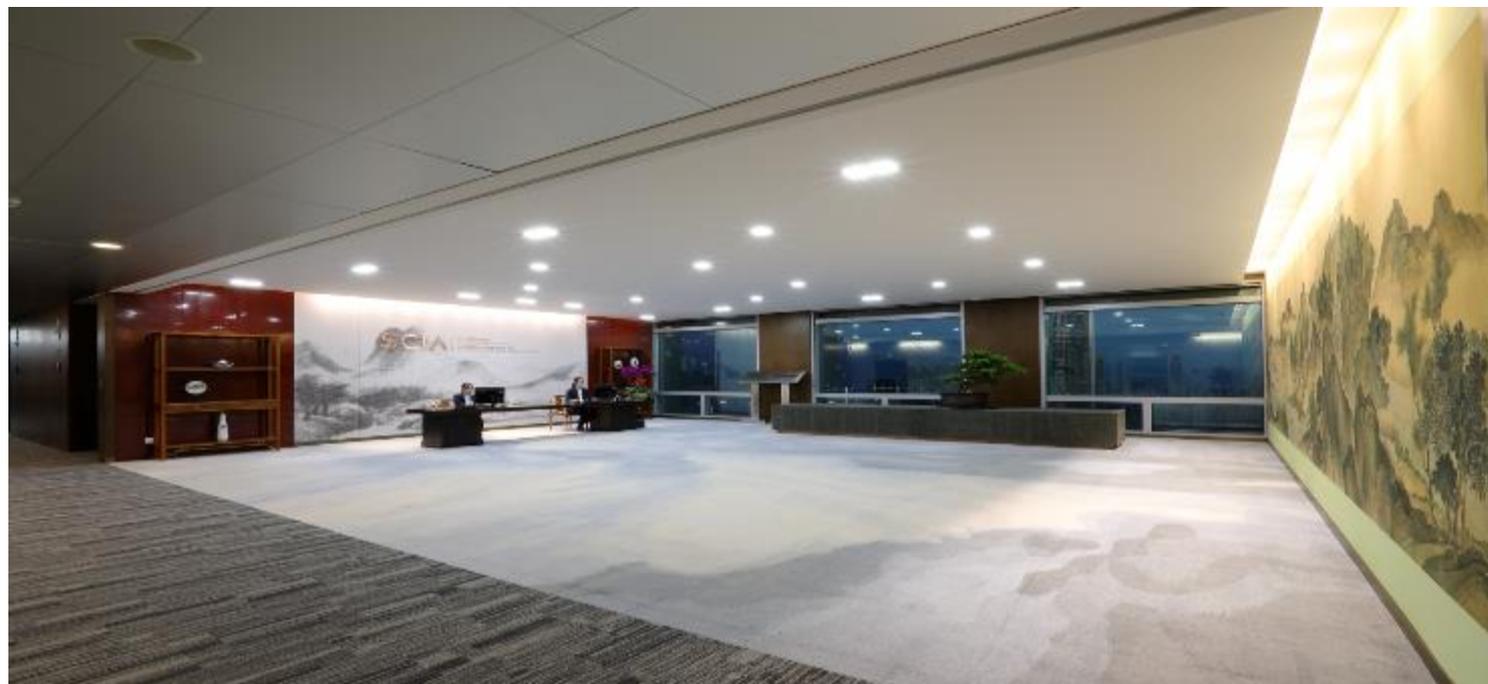


In August 2019, SCIA delegation was invited to visit Sri Lanka and met with Foreign Minister and Attorney General of Sri Lanka

SCIA's Facilities



Located in Shenzhen Stock Exchange Building, the heart of China Capital Markets



SCIA Reception Hall



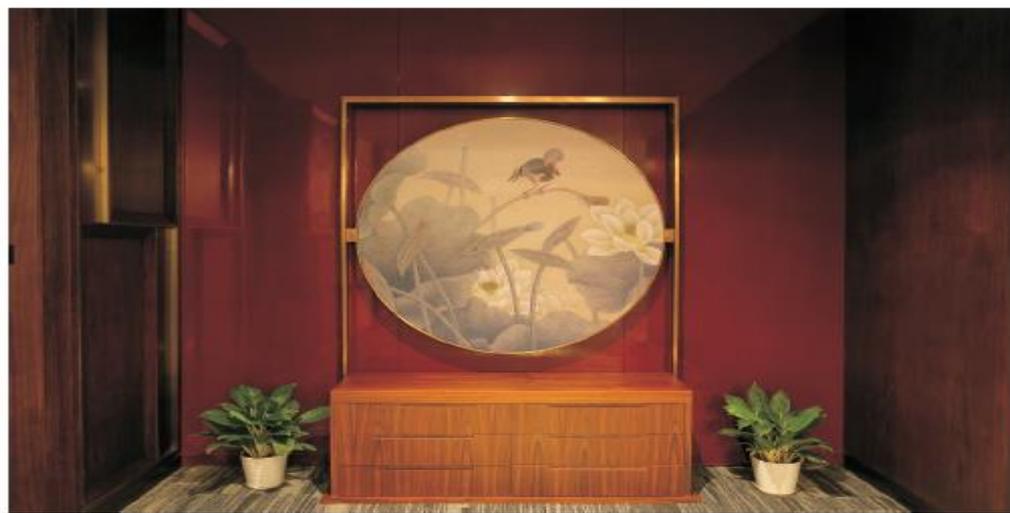
Registration Area



Arbitrator Office



Lawyer Office



Chinese-style Decoration



Library



Pantry



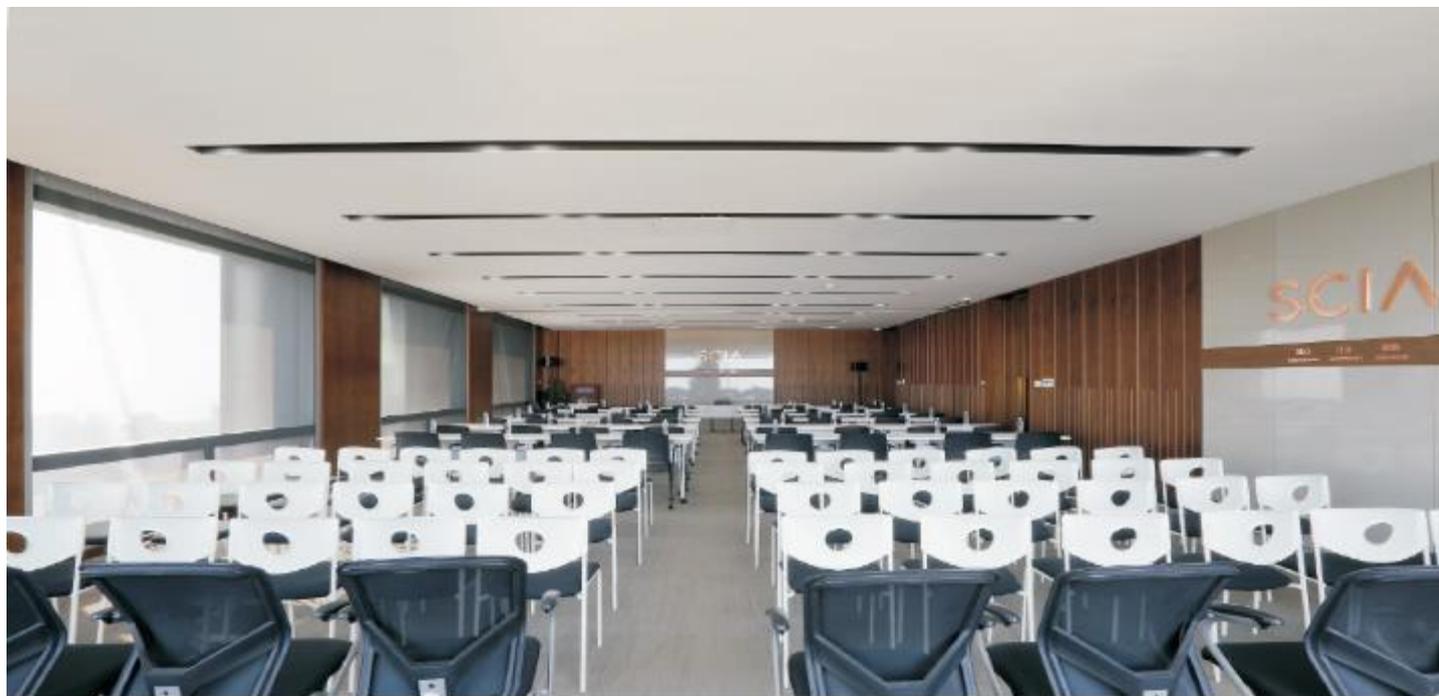
Hearing Room



Hearing Room



Hearing Room



Multifunctional Hall (Hearing and Training)





The SCIA Negotiation Facilitation Centre





Shenzhen Securities and Futures Dispute Resolution Centre ("SFDR")



SCIA Hearing Centre (North America)



SCIA Hong Kong Hearing Facilities

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| Sitemap

Institutions qualified for interim measure application ▾

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Institutions qualified for interim measure applications announced

The Department of Justice (DoJ) announced today (September 26) the following list of qualifying arbitral and dispute resolution institutions and permanent offices which are eligible for applying to the Mainland courts for interim measures (listed in arbitrary order):

- * Hong Kong International Arbitration Centre
- * China International Economic and Trade Arbitration Commission
Hong Kong Arbitration Center
- * International Court of Arbitration of the International Chamber of
Commerce - Asia Office
- * Hong Kong Maritime Arbitration Group
- * South China International Arbitration Center (HK)
- * eBRAM International Online Dispute Resolution Centre

SCIA HK is an independent arbitration institution registered and recognized under Laws of Hong Kong

Model Arbitration Clause (SCIA)

- Any dispute arising from or in connection with this contract shall be submitted to the Shenzhen Court of International Arbitration (the SCIA) for arbitration.



Model Arbitration Clause (Appellate Arbitration)

- Any dispute arising from or in connection with this contract shall be submitted to the SCIA for arbitration. The parties grant each other the right to appeal to the SCIA against the award or awards rendered by the arbitral tribunal. The appellate tribunal renders the final award. The place of arbitration shall be _____. (State the country or jurisdiction where the Appellate Arbitration is not prohibited)



Model Arbitration Clause (SCIA HK)

- Any dispute arising from or in connection with this contract shall be submitted to the South China International Arbitration Center (Hong Kong) for arbitration.



Thank You!



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