HKIAC in Korea: A Look at HKIAC Developments and Presence in the Korean Legal Market

The Hong Kong International Arbitration Centre (HKIAC), which has long been an arbitration institution of choice in Asia, is pleased to report on our growing presence in Korea and opportunities for parties and legal practitioners who are seeking arbitration and alternative dispute resolution services in the region.

Cases with Korean Parties

Among the record number of 503 cases submitted to HKIAC in 2019 involving parties from 56 jurisdictions, Korea ranks 7th in the list of geographical origins or nationalities of these parties. Korea has consistently ranked among the ten jurisdictions to most frequently submit cases to HKIAC, according to our case statistics made available since 2009. There has also been a gradual increase in the number of Korean parties, with record high numbers this year.

The value of claims ranged from USD$100,000 to USD$1 billion and covered a broad range of disputes, including but not limited to, sale of goods, maritime, international trade, construction, general commercial, investment, employment, breach of contract and intellectual property disputes. Almost every case involving Korean parties in 2017 was an international trade dispute, and such disputes comprised almost half of cases with Korean parties in 2018. In 2019 and 2020, 54% of cases with Korean entities involved financial transactions.

Most cases involving Korean parties are now administered under the HKIAC Administered Arbitration Rules, and only a few cases in 2018-2020 were ad hoc compared to previous years. Korean parties have been on both sides of HKIAC arbitrations as Claimant and Respondent, and opposing parties have been from Mainland China, Hong Kong, the Cayman Islands, Taiwan, the British Virgin Islands, Malaysia, Singapore, the U.S., the Philippines, Japan, India, and European countries.

Korean Arbitrators

The number of Korean arbitrators and practitioners at HKIAC has steadily increased. In addition to Jun Hee Kim, the past Chairperson of the HKIAC’s Appointment Committee, the HKIAC Panel and List of Arbitrators includes Professors Hong-Sik Chung, Joongi Kim, and Hi-Taek Shin, as well as John Bang, Liz Chung, John Rhie, Ben Hughes, Kevin Kim, David MacArthur, Robert Wachter and others. The arbitrators include both Korean and foreign nationals based in Korea and other jurisdictions. All arbitrators speak English and Korean, with a few arbitrators capable in other languages such as Chinese or Japanese. They also bring diverse areas of expertise to their arbitration practice and have held or currently hold positions in academia as well as private practice. Korea is also represented in the HK45 group by Regional Ambassadors including HKIAC Committee Member Moses Park and attorneys Seung Min Lee, Phillip Kim, and Edern Coent.
Developments Relevant to Increase in Demand for HKIAC Arbitration

There were several factors behind the increase in demand for HKIAC arbitration by Korean parties.

First, there has been an increase in commercial transactions between Korean and Mainland Chinese parties and a consequent increase in demand for use of international arbitration. HKIAC has been the arbitration institution of choice where a party to the arbitration agreement is from China, and the HKIAC Rules have been used in standardized form contracts for China-related projects.

Second, a major development has been the Interim Measures Arrangement (Arrangement) between the Government of Hong Kong and the Supreme People’s Court of the People’s Republic of China (SPC). When the Arrangement came into effect in October 2019, Hong Kong became the only arbitration jurisdiction outside Mainland China where parties to arbitrations may obtain interim relief in support of arbitration proceedings from Mainland Chinese courts, with respect to assets, evidence and conduct within Mainland China. HKIAC’s report on the Arrangement and responses to frequently asked questions on the topic can be found here. Latest information on case statistics under the Arrangements can be found here.

More broadly, HKIAC has extensive experience and an unrivalled record of enforcement in Mainland China.

HKIAC also has experience and expertise involving Belt and Road Initiative (BRI) disputes, which the jurisdiction spans over Asia, the Middle East, Africa, and Europe.

HKIAC-Korea Cooperation

HKIAC established its Seoul office in 2013 to provide services and better address the needs of Korean users. In 2018, the HKIAC appointed Counsel and Chief Representative Kellie Yi to head the HKIAC Korea office in Seoul, which provided a direct point of contact to HKIAC services and enabled further collaboration between HKIAC and the Korean legal community. Ms. Yi is fully bilingual in Korean and English and has experience with international arbitration as in-house counsel at a major Korean conglomerate company and as external counsel at an international firm.

In addition to its geographic location and links to China, HKIAC offers cost-effective fee options and stands out among major international arbitration institutions for its affordability. In the last 12 months, for example, HKIAC facilitated investor-state hearings at the Seoul International Dispute Resolution Centre to be used free of charge for its users. In September 2019, HKIAC executed a Cooperation Agreement with the Korean Commercial Arbitration Board (KCAB) to better promote the use of SIDRC and HKIAC facilities for cases administered by HKIAC in Seoul and KCAB in Hong Kong.

On 27 May 2020, HKIAC entered into another Cooperation Agreement with the Korea In-house
Counsel Association, agreeing to collaborate on conferences, workshops, and training sessions and further best practices in international arbitration and dispute resolution for Korean users.

As a result of these efforts, increasing number of practitioners in Korean law firms and in-house counsel have access to HKIAC’s services. This is not limited to the five biggest law firms in Korea but includes mid-sized firms and non-Korean firms with offices in Seoul that are active in the international arbitration scene.

Learn More About Us: Webinars & Interview Series

Recently, to ensure that Korean users can stay connected to HKIAC and are informed of the newest HKIAC developments, HKIAC has held Korean-language webinars on a range of topics considered pertinent to Korea as part of the HKIAC Webinar Series.

The first Korean language webinar in late April began with a discussion about the Interim Measures Arrangement. In light of the COVID-19 outbreak, the second webinar dealt with the topic of disruption and force majeure in contracts. In addition to others described below, HKIAC Korean language webinars also covered Dos and Don’t of Drafting Arbitration Clauses and HKIAC’s Measures for an Efficient Construction Arbitration – Paving the Road to Settlement. The webinars reflect the interests of Korean users and topics that have been particularly relevant to Korean parties in past and current disputes. For example, some webinars highlighted the prevalence of arbitration relating to construction projects and HKIAC’s measures in those types of disputes, while another webinar covered the BRI and insights on its impact on Korean companies. The most recent webinar on gaming and IP disputes is also timely, as there has been over three gaming and licensing disputes involving Korean parties this year alone. A complete list of topics and recordings of all webinars are available here.

HKIAC has also conducted a series of interviews with HKIAC’s leadership. During his interview, Jun Hee Kim shares his perspectives on HKIAC’s active role as an arbitration institution in Korea and general trends with respect to the Korean market and international arbitration. Jun Hee Kim and other Council member interviews can be viewed here.

If you have any inquiries or would like further information on activities of HKIAC’s Seoul office, please contact us.

Media Contact
Hong Kong International Arbitration Centre
Kellie Yi
Tel: (82) 10 3118 8384
Email: kyi@hkiac.org