Lord Bingham of Cornhill in his book *The Rule of Law* (2010) at p. 86 describes arbitration as involving:

‘the appointment of an independent arbitrator, often chosen by the parties, to rule on their dispute according to the terms of reference they give him. This can only be done by agreement before or after the dispute arises, but where it is done the arbitrator has authority to make an award which is binding on the parties and enforceable by the process of the courts.’

Lord Bingham’s statement captures the two important essence of private arbitration – consent by both parties to the arbitral process, and the authority bestowed on a chosen arbitrator to decide the dispute by making an award which is binding on the parties, and ultimately enforceable by the courts. In *TCL Air Conditioner (Zhongsan) Co Ltd v Judges of the Federal Court of Australia* (2013) 251 CLR 533, the High Court of Australia considered the description of private arbitration, and the relationship between private arbitration and the courts is apt for Australia, as it is for the United Kingdom, and the United States of America.

A private arbitration process is certainly a convenient process for dispute resolution amongst disputants as the process is under their control, and result can be fast, efficient and effective to achieve ‘finality’ and ‘fairness’. However, this technique brings along challenges, opportunities and sometimes disagreement as to how the rules of the game, both domestically and internationally, ought to be applied.

Closer to your home, it has been 5 years since the split of the former branches in Shanghai and Shenzhen from the China International Economic and Trade Arbitration Commission (CIETAC). There is now the Shanghai International Economic and Trade Arbitration Commission (SHIAC) and South China International Arbitration Commission or Shenzhen Court of International Arbitration (SCIA).

Since then it appears, from an outsider, that there have been inconsistent attitudes towards the split. For example, the Shenzhen Court considers SCIA as a legitimate and independent arbitration commission notwithstanding the Higher People’s Court of Jiangsu Province’s earlier directive of refusing to recognise the enforcement of awards issued by SHIAC or SCIA. Fortunately, the Supreme People’s Court has now issued a binding judicial interpretation to clarify the jurisdiction of CIETAC, SHIAC and SCIA over arbitration dispute clauses.
There is every sign that Arbitral Commissions such as the China Maritime Arbitration Commission (CMAC), the Beijing Arbitration Commission (BAC) or Beijing International Arbitration Centre (BIAC), the Shanghai Pilot Free Trade Zone Court of Arbitration (SFTZCA) and numerous other arbitration commissions in the PRC are gaining greater importance, particularly with their arbitration awards being enforced in other countries like Australia. A recent example is the case of Ye v Zeng (No 4) [2016] FCA 386 where an arbitration award from the Xiamen Arbitration Commission was enforced by the New South Wales Federal Court of Australia.

Commercial arbitration as a distinct process of dispute resolution shows greater promise that it will continue to grow from strength to strength due to the successful enforcements of arbitration awards in Australia. The same cannot be said, at the present time, regarding the enforcement in Australia of a judgment from the PRC courts.

However, it should be noted that on 26 July 2016 three judges (Judges Yu Xiaoqiao, Ye Yu Bao, and Zhang Hong) in the Wuhan Intermediate People’s Court concluded in Wang Jingke v Hu Wenpei that the Australian Federal Circuits Court’s divorce judgment was in line with the conditions under which the PRC’s law recognises the validity of the judgment of a foreign court, in accordance with the provisions of Article 268 of the Civil Procedural Law of the PRC.

The time may be ripe for an Australian court to consider enforcing a PRC judgment based on the principles of reciprocity and/or on common law principles. Singapore, a common law jurisdiction, has done so in Giant Light Metal Technology (Kunshan) Co Ltd v Aksa Far East Pte Ltd [2014] SGHC 16, and the Nanjing Intermediate People’s Court has also recognized and enforced a civil judgment made by the Singapore High Court based on the principles of reciprocity in Kolmar Group A.G. v Jiangsu Industry (Group) Import & Export Co Ltd (2016) Su0 1 Assisting Foreign Recognition No 3.

There will undoubtedly continue to be tensions as to the best approach to adopt. Australia’s developed international arbitration process and the rule of law definitely gives it an advantage for a judgment creditor from the PRC seeking to enforce its arbitration awards against a judgment debtor.

How is this done in Australia? Like many other countries, Australia has adopted the UNCITRAL Model Law on International Commercial Arbitration (the Model Law), which presents a good legal framework for harmonization and consistent application of the local law of a country to the enforcement of international arbitration awards, for example under the New York Convention to which Australia and the PRC are also signatories.

Tonight, we will hear from two speakers at Aitken Partners, who will discuss International Arbitration in Australia, and provide you with good avenues for collaboration.
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威廉先生是在马来西亚槟城出生的第三代华裔，而他从1982年开始便定居在墨尔本并生活至今。威廉先生先是在莫那什大学完成了本科教育，随后在澳大利亚企业家研究学院取得了企业管理以及创新的研究生学位，并取得了毕业生中的最高学术成绩。与此同时，他也取得了知识产权的法学硕士学位以及计算机科学的学士学位。

从2010年起，威廉先生便担任维多利亚商业大律师协会亚洲部的主席并大力发发展维多利亚和亚洲之间的战略合作。他也担任着澳大利亚律师协会的全国副主席，而澳大利亚律师协会则是促进法律业界的多元文化的机构。威廉先生本身是从事商业法以及企业法领域的大律师。他同时也是有着专业认证资格的维多利亚大律师协会的调解员以及协调员。

威廉先生在之前曾担任维多利亚华人职业商业协会主席，维多利亚省中华联合协会的荣誉法律顾问；目前正在担任澳大利亚澳华社区议会的荣誉法律顾问。与此同时，他也在澳大利亚社区语言管理处与维多利亚政府发起的教育计划中担任着语言大使。

威廉先生热爱并大力支持教育，而他目前担任着莫那什大学法律议室的合同法主考官，在莱奥库森学院担任教授商业法，企业法以及知识产权法的学期讲。
与此同时，他也是斯文本科技大学企业管理以及创新研究生课程的咨询委员会的成员，泽尔曼考恩中心的会员。

威廉先生本身也在为多家公益机构提供服务以及帮助，他目前是全球儿童慈善机构-澳大利亚星光儿童基金会维多利亚州咨询委员会的一员。他也是澳大利亚基金会的创始者，汇集了澳亚社区的资源，为能力建设，教育和艺术等领域进行慈善反馈。威廉先生也是世界华商峰会全球商业委员会的一员，以及澳大利亚WCES首席代表。

在2017年澳大利亚荣誉日，威廉先生因在法律服务，商业服务以及促进多元文化上做出的杰出贡献，被授予澳大利亚荣誉勋章。