



# BAC Newsletter

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## Important News

On the evening of May 6, 2008, the Fifth Annual Award Presentation Ceremony of the China University of Political Science and Law (CUPL) was held. The presentation was assisted by the BAC, and organized by the China Communist Youth League Commission at CUPL, VIP guests included Mr. Jiang Ping, BAC President and Tenured Professor of CUPL, Professor Chen Guiming from China Renmin University, Professor Wang Yaxin from Law School of Tsinghua University, Mr. Zhang Genda, Deputy Director of Legal System Reform Office of Supreme People's Court and Professor Song Chaowu from CUPL. Professor Ma Kangmei, Deputy Secretary of CCP Committee and Vice President of CUPL and Madame Wang Hongsong, Secretary General of BAC addressed the ceremony on behalf of the organization. After the award presentation ceremony a

law-science summit forum was held on the topic of "Alternative Dispute Resolution and Construction of a Harmonious Society." The guests had an engaging discussion on a range of topics, including the values of ADR, reform issues in ADR, and observing the development of ADR practices at the BAC. This summit is the first in a series of BAC events in which the BAC will visit universities, promoting arbitration and assisting in the integration of teaching and arbitration practice. For details (In Chinese), please visit:

[http://www.bjac.org.cn/garden\\_plot/080509.html](http://www.bjac.org.cn/garden_plot/080509.html).

On May 13, 2008, the BAC held an emergency meeting, deciding to launch a charity campaign for the areas seriously affected by the earthquake in Sichuan Province. The BAC immediately sent a

proposal for charity donation to all BAC arbitrators. By May 21<sup>st</sup>, RMB 1,057,429.66 Yuan, and 200 US dollars had been raised in total, including donations from arbitrators from Taiwan, Korea, USA, France and Germany. That afternoon, a meeting was held by the BAC Office, CPC Branch, Labor Union and members of the Arbitrator Development Committee in order to discuss the earthquake donation. A decision was reached to donate RMB 150-thousand Yuan to Mianyang Arbitration Commission and RMB 100-thousand Yuan to Deyang Arbitration Commission, who were seriously affected by the disaster. The remaining funds will be used for recovery and reconstruction of schools in the disaster-affected areas.

## Focus of this Issue

### The BAC and Arbitration Institutions in Disaster-affected Areas Work Together to Rebuild the Community

#### -----The BAC and Arbitration Institutions in Disaster-affected Areas Work Together to Rebuild the Community

On May 13, 2008, the second day after the Wenchuan earthquake in Sichuan, the BAC immediately held an emergency meeting, deciding to launch a charity campaign for the areas that were seriously affected by the earthquake, Immediately, a

proposal was sent out to the staff and arbitrators of the BAC, calling upon them to extend their support and donations to the people in the disaster-affected areas. On May 21<sup>st</sup>, the BAC Office, CPC Branch, Labor Union and members of the arbitrator

Development Commission held a discussion meeting on the charity donation activities for the relief and recovery works. ([Read more](#))



All the participants were deeply moved by the affects of the earthquake, especially the deaths of students in rural schools. At present, people from across the country are carrying out relief efforts, and our arbitration community is no exception. We must enable our fellow arbitration institutions in the disaster-affected areas to feel our caring and support in this difficult time. The meeting agreed to firstly donate

RMB 150,000 Yuan to Mianyang Arbitration Commission and RMB 100,000 Yuan to Deyang Arbitration Commission.

The participating members came to the consensus that the rest of the donation should be used for recovery and reconstruction of schools in the disaster-affected areas. It is the BAC's goal to ensure that every cent of the donations

be used in the most needed areas. The initial plan is to authorize the Arbitration Commissions in Deyang and Mianyang to contact the local education authorities, to fulfill the site selection and planning of the schools, and select builders with good qualification and high reputation to construct one to two qualified anti-earthquake primary schools in those areas.

Throughout the discussion, participants agreed that during this time, the country and the people have suffered huge losses, and the reconstruction after the disaster is a long-term task. As a responsible institution with a sense of social responsibility the BAC has an opportunity to take part in charity activities, and to establish a long-term social responsibility mechanism, so as to continuously contribute to the disaster-affected areas and people who need assistance.

## The Donation of the Arbitrators and other cooperators

After the meeting the BAC received many additional suggestions from arbitrators, who all expressed willingness to participate in donation. They highly appraised the donation activities and the idea to establish a long-term mechanism at the BAC. [\(Read more\)](#)

As of June 4th, 2008, the BAC has raised RMB 1,094,729.66 Yuan and USD 200 in total for the charity donation for relief and recovery works. Donations also came in from Taiwan, as well as Korea, the USA,

France and Germany, with amounts of personal donations ranging from hundreds RMB Yuan to tens of thousands of RMB Yuan, and the highest amount is for RMB 56,000 Yuan. Many arbitrators who were on business trips overseas donated through all kinds of means. In addition, when the student delegation from Pepperdine University visited on May 26th, the BAC introduced them to the campaign. Members of the delegation were very interested in making a contribution to the effort, and are enthusiastic about making further donation

once the school construction proposal is completed.

Much of the proposal is already underway. The BAC has initially selected a Beijing enterprise with First Level Qualification for the construction to provide assistance for building a primary school with the help of arbitrators. The BAC will ensure that all donations will be used for engineering construction in time and in full amount. As the disaster area is still in a stage of relief effort, reconstruction has



yet to begin; the BAC is already coordinating with the relevant departments to ready the school construction efforts when reconstruction begins.

The BAC will promptly answer any inquiries from donors, and will publish the progress of the project as it continues.. We also welcome donors to continuously pay

attention to our long-term charity mechanism, so as to continue our efforts toward social responsibility.

## Communication and Cooperation

### The China International Law Annual Conference: Discussion on Professor Liang Huixing's Proposal to Reform China's Institutional Arbitration

The China International Law Annual Conference was held in Beijing on May 29<sup>th</sup> and 30<sup>th</sup>, 2008. One key topic in the conference was "Improvement of the foreign-involved civil action system and arbitration systems in China." The key points on this were the current status and problems of the arbitration systems in China. Mr. Huang Jin, Vice President of Wuhan University, presided over the group discussion. In March Professor Liang Huixing gave a speech on arbitration reform before the National People's Congress. The critical part of his speech drew attention to the "administration trend" or government administrative interaction in arbitration; in his opinion the greatest challenge facing arbitration today. BAC Secretary General Wang Hongsong made a keynote speech supporting the suggestions made by Professor Liang. Madame Wang first introduced Professor Liang's proposal, which suggested full implementation of the arbitration law to correct the trend of government administrative interaction. Madame Wang detailed many problems arising due to this interaction, including government officials holding concurrent posts in the administration departments of arbitration commissions, confusing paths of



revenue and expenditure in the financial management system of the arbitration fees, the trend of the arbitration institutions to rely on fiscal support from the government, and the interference of government in the self-governance of arbitration commissions.

Madame Wang also noted the importance of China's institutional form of arbitration, and the importance of maintaining institutional independence. She also called for arbitrators to take part in this discussion and engage their sense of social responsibility. Society, she said,

should pay great attention to Professor Liang's proposal and take note from the conclusions drawn by the academic community.

Prof Song Lianbin, another keynote speaker, also pointed out the crises covered under the surface prosperity of arbitration in China today. He believes that this trend toward government administrative interaction is a more serious hazard for arbitration than that posed by arbitration's trend toward emulating litigation; where the former is a directional and fundamental



issue, he said, the latter is a technical issue. He stated that the official-oriented public-servant management method of arbitration is not in compliance with the principles of ADR, and leads to the possibility of arbitration becoming a “secondary law court”, which is opposite to the nature of arbitration. He suggested that researchers focus on the practical situations in China and actively seek to present solutions. He also pointed out that the legal education of arbitration not only teach basic concepts, but also should pay attention to practical operation and empirical dispute resolution skills.

The speeches received strong feedback from the meeting participants, and during the free- discussion period, Prof. Liu Huishan from China Foreign Affairs University said in her address: Arbitration should hold the flag of justice and efficiency,

to take the market and civil approach, and try best to avoid the administration trend of arbitration, otherwise it will be possible to cause the considerable negative impacts for arbitration in China.

Mr. Tang Houzhi, Honorable Deputy Director of China International Economic & Trade Arbitration Commission (CIETAC), a senior arbitrator and a patriarch in the arbitration community, also agreed to correct the administration trend of arbitration, and he also actively suggested for the issue of correcting the administration trend when revising the arbitration law. Mr. Dong Nianqing from Civil Aviation Management Institute of China, combining his personal experiences when studying in Canada, pointed out not only do many scholars and lawyers in China doubt the justice of arbitration awards in China, but also the foreign scholars have doubts for the

arbitration awards in China, and the root is the concern for the administration trend of arbitration. Prof Huang Yaying from Shenzhen University pointed out that the arbitration in China should be internationalized, which includes the internationalization of the arbitration procedures, and the internationalization of the institutions themselves, noting that the former has been done much better than the latter. Arbitration institutions include three components: Arbitration commissions, courts of arbitration and permanent representative offices. A very important issue in the internationalization of the arbitration institutions is the internationalization of the permanent representative offices of arbitration institutions. The academic community should enhance research in this area, and improve communications with arbitration institutions.

## Arbitrator Trainings

### 7<sup>th</sup> Arbitrator Training Session Successfully Held at the Training Center of Tsinghua University Law School



This year the BAC has overseen another successful training session. After one week, among 54 students, those with the qualified comprehensive scores will successively receive the qualification certificates for exam from Law School, Tsinghua University, and this certificate will also become an important prerequisite condition for these students to apply to be arbitrators of BAC in the future. [\(Read more\)](#)



and are better able to participate in, and preside over the hearing of the arbitration cases.

parts of the training session, and were taught by Ms. Li Juxia and Mr. Wang Jialu respectively. As experienced BAC arbitrators both have rich experiences in arbitration practice, and thus were well qualified to speak to every detail throughout the arbitration process.



Based on feedback taken during the successful completion of the first six training sessions, the curriculum was readjusted and updated for the 7<sup>th</sup> training session. The curriculum upgrade was focused on improving practical skills, including an emphasis on correct procedure and a more detailed introduction to mediation. The new session also emphasized more interaction between the instructors and students, visuals via powerpoint, video clips of simulated hearing sessions, and group case discussion. The upgrade proved effective and increasing the enthusiasm and participation of the students, and improved their comprehension and digestion of the training content. As a result, students more clearly understand the arbitration procedure

The training began with a lecture by Secretary General Wang Hongson, who spoke to the importance of a professional arbitration culture. Madame Wang first introduced the BAC's development, pointing out the promising nature of careers in arbitration. She noted that an outstanding group of arbitrators is a key element to improving the nature of arbitration. She drew upon justice, efficiency, and impartiality as the foundation for the healthy development of the arbitration sector, and improving its reputation.

“Mediation in arbitration” was a newly added program this time around, and was taught by Mr. Zhao Hang, a BAC arbitrator. Mr. Zhao Hang has an excellent record of settling cases via mediation. His record is attributed to his high-level of professional knowledge as well as his ability to skillfully apply mediation techniques.

“Judgment ideas in arbitrators” was the last course of the training session. Procedural guidelines for rendering arbitration awards are excellent tools, but they do not encompass everything necessary to render one. This course covered the spirit and the ethics of judgement. Mr. Liu Junhai, a BAC arbitrator and famous legal expert, taught the course.



“Pre-Hearing Preparation” and “Conducting Arbitration Procedure and Advancing the Hearing Process” were key





## Recent News and Trends

➤ May 8, 2008: the Arbitration Development Symposium of North China was held in the BAC International Conference Hall. Mr. Lu Yunhua, Deputy Head, and Mr. Yuan Shimin, Director of Government Legal System Coordination Section in Legal System Office of the State Council, attended the symposium.

➤ May 9, 2008: Mr. Yang Liangyi, Chairman of Asia-Pacific Regional Arbitration Organization and the former Chairman of the Hong Kong International Arbitration Centre, lectured at the BAC's fifth monthly Arbitrator Salon of 2008. (42nd in total) The topic of this month's salon was "Application of Evidences in International Arbitration Cases.". This saloon event was presided by Professor Wang Jun, a BAC arbitrator. Nearly 120 participants including BAC arbitrators, tens of arbitration institutions, lawyer's firms and postgraduate students of universities and colleges in North China, etc attended this arbitrators' saloon. Arbitrators from Nantong Arbitration Commission and Zibo Arbitration Commission also joined this event through internet connection.

➤ international arbitration. This summer, the BAC will host interns from UC Berkeley.

➤ May 24-25; May 31-June 1, 2008: The 7<sup>th</sup> Arbitration Training Session was held at Tsinghua University. (Link: Special focus in this issue....)

➤ May 26, 2008: The BAC hosted the annual Asia Study Tour from the Straus Institute for Dispute Resolution at Pepperdine University School of Law. The

➤ May 15, 2008: Led by Ms. Chen Xiaomei, Deputy Chair, six delegates from the Wuhan Arbitration Commission secretariat visited the BAC. Members from both organizations engaged in discussion on several issues. Members of the BAC staff introduced some practices and experiences relating to the issues of case operation procedure, working criterion, jurisdiction supervision, arbitrator services and management. The representatives from both organizations felt they had learned a lot from the meeting, and look forward to working together to improve the field of arbitration.

➤ May 16, 2008: Ms. Joan C. Grafstein from JAMS, in the USA visited the BAC. Ms. Grafstein acts as Executive Director of the JAMS Atlanta Office, and is also a famous arbitrator and mediator at center. Madame Wang Hongsong, Secretary General of the BAC, exchanged the ideas on arbitration and mediation work at the BAC and JAMS. Madame Wang introduced the BAC's new mediation rules and the mediator training to the guests. Likewise, Ms. Grafstein introduced the mediation work situation at JAMS.

Delegation was led by Professor Thomas Spanowich, Academic Director of the Institute, and Sally Harpole, an internationally famous arbitrator and China expert. Secretary General Wang Hongsong received the guests along with BAC arbitrators Chen Guang, Tan Jinghui and Yang Xiaochuan, and engaged the students in discussion about arbitration and mediation in China. Both professors and students were thrilled to have such

➤ May 16, 2008: as one of the "Arbitration visiting campuses" serious promotion events in BAC in 2008, assisted by BAC, and organized by Law Association of Law School in China Renmin University, a simulated commercial arbitration court for intellectual property rights in China Renmin University was held in Shaw Conference Center of China Renmin University. ([www.bjac.org.cn/garden\\_plot/080527.htm](http://www.bjac.org.cn/garden_plot/080527.htm))

➤ May 20, 2008: The BAC was paid a half-day visit by Professor Stanley Lubman of the Law School at University of California, Berkeley. In recent years, Prof Lubman has been dedicated to research on the jurisdiction system reforms in China, and has released a series of articles. During his visit to the BAC this time, Prof Lubman had discussions with Madame Wang Hongsong on some of the issues he is concerned about. During the discussion, Prof Lubman expressed his opinions on the current jurisdiction system in China, and proposed some of his suggestions. Both parties expressed ideas on reform of China's system, and agreed to the importance of increasing collaboration with academia and distinguished BAC arbitrators on-hand to provide an inside look into the field.

➤ May 26, 2008: Judges from Beijing Municipal 2nd Intermediate People's Court visited the BAC and spoke on the juridical supervision of arbitration, and the cancellation of arbitration awards. Both parties expressed the importance of legal support for arbitration. The increasing use of mediation was also a topic of discussion.

➤ May 30, 2008: Secretary



General Wang Hongsong attended the 2008 China International Law Annual Meeting, and made a keynote speech on “Suggestions on supporting Professor Liang Huixing to implement the law enforcement inspection on the arbitration law” in the group discussion of “Improvement of foreign-involved civil action system and arbitration system in China”, which caused the warm feedbacks from the participants. (For details, please refer to “View Point Communication” section)

➤ On June 26, 2008, Mr. Andrew Aglionby, Director of International Commercial Arbitration Department, Asia-Pacific Region of Partner of Baker & McKenzie (Hong Kong) Lawyers’ Firm, a Royal arbitrator and a member of Hong

Kong Arbitrator Academy, will make a keynote speech on “Ordinary arbitration procedures for construction projects in Hong Kong & The differences with the practices in the Mainland” at the BAC’s next Arbitrator Saloon (43rd in total).

➤ “Financial Services and Insurance Commission” (FSI) of International Chamber of Commerce will organize a regular meeting in Headquarters of ICC in Paris. The topic to be discussed in this two-day meeting will have two components: “Strategic considerations on governance and financial challenges” and “Impacts that have been caused to the financial sector by the chaos caused by Subprime Crisis in USA”.

➤ World Commercial Law

Association in ICC will organize the first senior training session on international commercial arbitration in its Paris headquarters of ICC during June 16 till June 19, 2008.

➤ As authorized by IFS Headquarters in the UK, China National Commission of China International Chamber of Commerce will release the training session on “Applications of UCP600 and ISBP in the practical works”. This training session will be held in Beijing during June 21 to 22, and at present, it has officially begun to accept the registration, and the registration period is during May 13, 2008 till June 18, 2008