

A step forward for tax dispute resolution between China and ASEAN countries under the Belt and Road Initiative

Abstract

China has a closer business relationship with Southeast Asian countries under the Belt and Road Initiative (BRI). To ensure tax certainty for the investment, it is necessary to establish an effective and efficient tax dispute resolution mechanism. The mutual agreement procedure (MAP) is the primary means, but it has its limitations, especially for countries in this region. Arbitration could be a powerful complementary to the MAP. China has established a new BRI Court-connected and Mediation Centre (Centre) that aims to resolve commercial disputes in this region. It seems like a new alternative for resolving tax disputes since it combines mediation with arbitration. This article analyzes the pros and cons of adopting arbitration as a complementary means to the MAP in this region. It further discusses the advantages and concerns for the Centre. Although the Centre encourages using mediation to resolve disputes, which could address problems of direct arbitration, it is difficult to maintain impartiality from its current rough rules and its position. This article makes suggestions on improving the mechanism to guarantee the impartiality by selecting mediators and arbitrators with knowledge of the region, endowing disputants the right to appeal, and increasing transparency.