

Speech by Secretary for Justice at Welcome Reception of
the Asia Pacific Forum of the International Bar
Association (English only)

Following is the speech by the Secretary for Justice, Mr
Wong Yan Lung, SC, at a welcome reception for the Asia
Pacific Forum organised by the International Bar
Association today (September 17):

(Ms) Vivien (Chan), Mr (Fernando) Pelaez-Pier, ladies and
gentlemen,

I am grateful for the opportunity to address the
Asia Pacific Forum of the International Bar Association
this evening.

The IBA is an old friend of Hong Kong and it is
indeed our privilege and pleasure to welcome you all.

Introduction

The theme of your Forum is "New focus of
international business: Asia, the centre stage". I know
this theme was chosen more than one year ago before we
witnessed the numerous alarming events in the US economy
including Lehman Brothers' filing for bankruptcy. Of
course the change in the international economic landscape
had started long ago with China maximising on
globalisation and foreign investment.

Hong Kong is admittedly benefiting from the
tremendous economic growth of China. In addition,
China's rise as an international economic power is also
raising the tide of the Asian Pacific region. Singapore
has long been co-operating with different regions of
China on various economic pursuits. New Zealand has
entered into a Free Trade Agreement with China which
provides not just for investment facilitation and
liberalisation of trade in goods and services, but also
arrangements to raise working standards and to improve
environmental protection in both countries.

Hong Kong has also contributed to Mainland China's
economic development. Though progressing very fast,
China's financial and legal systems are still at the
stage of catching up. It is here where Hong Kong has a
unique role to play. Hong Kong is Chinese and Hong Kong
is international. Under the innovative One Country Two

Systems principle, Hong Kong is in the best position to supplement what China still lacks in these important areas.

The number of overseas and Mainland owned regional operations in our city is now approaching 4,000, which is an all time high figure over and above that in 1997. In terms of equity funds raised in 2007, Hong Kong was ranked second in Asia and fifth globally with total funds raised at around US\$9 billion. Earlier this year, TIME magazine coined the phrase "NyLonKong" - the grouping together of New York, London and Hong Kong as the three major cities that will manage global financial flows in different time zones. The Fraser Institute of Canada has just rated Hong Kong as the world's freest economy in its Economic Freedom of the World Index for another year. We have earned the top spot every year since the Index began.

The quality of the law and judiciary

We will spare no effort to maintain our favourable position. Of course, the business and economic success of Hong Kong is built on our commitment to the rule of law and a most reliable, competent and independent judiciary.

In the most recent survey by the Political and Economic Risk Consultancy, who asked 1,537 corporate executives working in Asia to rate the judicial systems in the countries where they reside, Hong Kong's judicial system topped the vote with a score of 1.45 on a scale that has zero representing the best and 10 the worst.

You may also like to know that following extensive consultation, the Chief Justice has recently introduced a wide-ranging reform of civil court procedure which seeks to simplify the process and reduce costs. One of the key changes is the greater use of alternative dispute resolution particularly mediation. In the meantime, a cross-sector working party has been set up under my chairmanship to promote mediation in Hong Kong.

The legal profession in Hong Kong remains strong and independent. We have at the moment about 6,100 solicitors and 1,100 barristers practising in Hong Kong. On top of that, we have over 1,100 foreign lawyers from 27 jurisdictions, including the Mainland, practising foreign law in Hong Kong. The profession provides a wide spectrum of expertise to a variety of private and corporate clients.

Common law is preserved in Hong Kong. Since 1997, we

have further moved on from the predominantly English basis to attain a more international jurisprudential repertoire. As guaranteed by the Basic Law, our mini constitution, precedents from other common law jurisdictions can be referred to in our courts. Judges from other common law jurisdictions sit on our Court of Final Appeal.

Effective protection of property rights and economic rights is a prerequisite for the success of a market economy and a financial centre. The right to private property of individuals and companies is protected by the Basic Law. In addition, we have comprehensive securities and companies laws and stock exchange regulations, which provide the key elements of the best corporate governance. 'CG Watch 2007 - Corporate Governance in Asia' released in September last year by the Asian Corporate Governance Association regarded Hong Kong as the top market in Asia in terms of corporate governance quality.

Our legal framework to protect intellectual property is fully compliant with the World Trade Organisation's Trade-Related Aspects of Intellectual Property Rights protection. We also have a whole range of laws regulating trade and contracts, as well as special types of business activities, some of which are backed up by criminal sanctions, and all of which are developing with the changing world. Further, Hong Kong is always keen to adopt the best international practice in the financial world. For example, we were one of the first jurisdictions to have adopted the revised capital framework released by the Basel Committee on Banking Supervision, known as Basel II. We are also determined to enhance Hong Kong's pro-market environment and to provide a level playing field for all by combating anti-competitive conduct. We have just consulted the public on the introduction of a cross-sector competition law in Hong Kong and are working on the establishment of a suitable legislative framework.

Hong Kong as a leading regional dispute resolution centre

For those of you specialising in international arbitration practice, you will agree that large international arbitration cases involving Chinese parties are clearly on the rise. Some international arbitration bodies are already considering moving east.

For example, the International Court of Arbitration of the International Chamber of Commerce, which is based

in Paris, will shortly be opening a branch of its Secretariat in Hong Kong. The Secretariat will be serving the Asia Pacific Region and responsible for supervising ICC arbitration in Hong Kong. This is a significant move by an international arbitration institution of high repute and a show of confidence in Hong Kong's position as a centre for dispute resolution.

Hong Kong is particularly suited to play that role both technically and strategically. First of all, apart from the first class legal and business structure, Hong Kong has longstanding expertise and experience in international arbitration. The Hong Kong International Arbitration Centre, our own home-grown arbitration body, ranked fourth in the world and second in Asia in terms of number of cases handled in 2007 and is rapidly expanding into a forum for the resolution of new areas of international disputes such as those over domain names.

In the meantime, we are amending our arbitration legislation in Hong Kong to bring domestic arbitration in line with the UNCITRAL Model Law. An Arbitration Amendment Bill will be introduced to our legislature next year to implement the reform proposals. We are confident that these changes will help better the environment for conducting international arbitration in Hong Kong.

Strategically, Hong Kong's proximity to the Mainland and the economic integration of the two economies make it an ideal venue for arbitration of commercial disputes between Mainland enterprises and international businesses.

Before 1997, Hong Kong was already a member of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In 1999, a separate arrangement was entered into between Mainland China and Hong Kong in order to facilitate reciprocal enforcement of arbitral awards. This arrangement covers ad hoc arbitration as well as institutional arbitration. My department has been liaising with the Supreme People's Court and other authorities to seek to bring about even closer co-operation in this regard.

I am confident of the tremendous potential here. I very much hope that many will share the foresight of International Court of Arbitration's decision in setting up its Secretariat in Hong Kong. My department will continue to discuss with other international arbitration bodies with a view to inviting them to establish a presence in Hong Kong, making Hong Kong a regional hub of arbitration.

Co-operation with the Mainland

On legal and judicial co-operation with the Mainland, I must mention two more matters.

A new law has just come into effect on August 1 this year implementing another arrangement between my department, the Department of Justice, and the Supreme People's Court in Mainland China to facilitate mutual enforcement of judgments in certain commercial disputes. We hope this will provide further incentive for international investors to make use of Hong Kong's legal services and judicial process, with a view to enforcing Hong Kong awards on Mainland assets.

Further, Hong Kong lawyers as well as other professionals are taking advantage of the Closer Economic Partnership Arrangement (CEPA) between Hong Kong and Mainland China to tap into China's service markets. By virtue of this arrangement, Hong Kong lawyers may form association with Mainland law firms and enjoy greater latitude as to legal practice in the Mainland. As at June 2008, 77 representative offices have been established by Hong Kong law firms in 13 cities of the Mainland.

Conclusion

We have just celebrated the successful completion of the 2008 Beijing Olympic Games and will be enjoying the closing ceremony of the Paralympic Games tonight. From the opening extravaganza in Beijing, to the thrills and excitement of competition in all the sporting disciplines, the 2008 Olympic Games has been a memorable and uplifting experience for us all. As the host city for the equestrian events, we are proud to be part of this historic undertaking for our country.

Following the euphoria of the Olympics, we expect the next 12 months to be a challenging time, with the risk of a worldwide economic slowdown and rising inflationary pressure. The capability to appreciate and adapt to change and to meet the challenges will determine a jurisdiction's competitiveness. We will move forward full steam capitalising on the advantages we possess to remain at the centre of the stage of international business in Asia.

On that note, I wish you most fruitful exchanges at

the Forum and a memorable and enjoyable stay in Hong Kong. Thank you.

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