

LC: Speech by SJ to move Second Reading of the Arbitration
(Amendment) Bill 2013

Mr President,

I move that the Arbitration (Amendment) Bill 2013 be read the second time. The object of the Bill is to amend the current Arbitration Ordinance (the Ordinance) in view of new developments in the arbitration regime and relevant matters.

Implementing the Arrangement Concerning Reciprocal
Recognition and Enforcement of Arbitral Awards between Hong
Kong and Macao

Firstly, Hong Kong and Macao concluded the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards (the Arrangement) in January 2013. The content of the Arrangement is similar to the arrangement between Hong Kong and the Mainland on mutual enforcement of arbitral awards concluded in 1999. To implement the Arrangement, the Bill will introduce a statutory mechanism for the enforcement of arbitral awards made in Macao by Hong Kong courts. The relevant provisions are similar to the existing provisions of the Ordinance relating to the implementation of the arrangement with the Mainland.

Tying in with the latest developments in the arbitration
sector

Moreover, in view of the recent developments in the arbitration sector, the Ordinance is proposed to be amended in three aspects:

(a) Firstly, since the emergency arbitrator procedure has increasingly been adopted by arbitral institutions around the world, the Bill proposes to make it clear that subject to the

relevant provisions of the Ordinance and with the leave of the court, any emergency relief granted by an emergency arbitrator before the constitution of an arbitral tribunal is also enforceable. In this connection, a new Part 3A will be added to the Ordinance to provide that after having obtained the leave of the Court of First Instance of the High Court of Hong Kong, any emergency relief granted by an emergency arbitrator in or outside Hong Kong will be enforceable.

(b) Secondly, section 75 of the Ordinance is proposed to be amended to provide that if the parties to an arbitration have agreed that the costs of the arbitral proceedings are to be taxed by the court, the costs are to be taxed on a "party and party" basis in accordance with the Rules of the High Court.

(c) Thirdly, as there are four new parties (Note 1) to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (which is also known as the New York Convention), the Bill is required to amend the Arbitration (Parties to New York Convention) Order in order to update the list of the parties to the Convention.

Other Amendments

Finally, in light of the new provisions, the Bill proposes to make some consequential amendments to the Rules of the High Court. We will also make some more technical amendments to certain existing sections of the Ordinance to align the wording of those sections with that of the new provisions and to make those sections more readable.

Views of the Professions and the Panel

The various stakeholders within the legal and arbitration professions have been consulted on the proposals under the Bill. They were supportive of the proposals and their comments and responses have been taken into account in

the drafting of the Bill. The Administration of Justice and Legal Services Panel of LegCo has also indicated support for the proposed amendments.

Conclusion

Mr President, the Administration strives to further enhance Hong Kong's position as a centre for legal services and dispute resolution in Asia Pacific. The Department of Justice has been making vigorous efforts to promote work in that regard. The Bill seeks to implement the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards between Hong Kong and Macao, and to make corresponding legislative amendments to tie in with the new developments in the arbitration sector. We believe that the Bill, when enacted, will help to reinforce Hong Kong's position as a leading international arbitration centre in Asia Pacific.

With these remarks, I urge Members to support the Bill.

Note 1: The four new parties are: Fiji, Liechtenstein, Sao Tome and Principe as well as Tajikistan.

Ends/Wednesday, April 24, 2013