

LC: Speech by SJ in moving the second reading of the Arbitration (Amendment) Bill 2013

Following is the translation of the speech by the Secretary for Justice, Mr Rimsky Yuen, SC, in moving the resumption of the second reading of the Arbitration (Amendment) Bill 2013 in the Legislative Council today (July 10):

Acting President,

The Arbitration (Amendment) Bill 2013 I introduced into the Legislative Council in April and the issues involved have been examined carefully by the Bills Committee chaired by Dr Hon Priscilla Leung. I am most grateful to her and the members of the Bills Committee for their helpful contributions.

As I pointed out when introducing the Bill into this Council, the Bill seeks to amend the current Arbitration Ordinance (the Ordinance) in view of the new developments in the arbitration regime and the relevant matters. The Bill introduces a statutory mechanism for the enforcement of arbitral awards made in Macao by Hong Kong courts in order to implement the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards concluded with Macao in January 2013.

Besides that, amendments are proposed to make it clear that emergency relief granted by an emergency arbitrator before the constitution of an arbitral tribunal is enforceable. Furthermore, it will be provided that if the costs of the arbitral proceedings are to be taxed by the court, they shall be taxed on a "party to party" basis. Under the Bill, the new parties (Note) to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (which is also known as the New York Convention) will be added to the Schedule to the Arbitration (Parties to New York Convention) Order.

Under the Bill, consequential amendments will be made to the Rules of the High Court and technical amendments to some current sections of the Ordinance to make those sections more easily comprehensible.

I will be moving some Committee Stage Amendments (CSAs) later. The CSAs have all been agreed by the Bills Committee. I will briefly outline the CSAs.

Commencement of the Bill (Clause 1 of the Bill)

We propose to amend clause 1 of the Bill to provide for a two stage commencement of the Bill. As regards the Arrangement concluded between Hong Kong and Macao, we are holding discussions with the Macao authorities on the implementation timetable. The pertinent provisions of the Bill will come into operation on a day to be appointed by notice published in the Gazette. As for other provisions, they will come into operation on the day of gazettal of the Bill upon enactment by this Council.

Clauses 4, 5 (Chinese text of the Bill) and 20

We propose to amend clause 4 of the Bill to make it clear that the new Part 3A will also apply to arbitration conducted in a place outside Hong Kong. We also propose very minor amendments to the Chinese text of clause 5 and clause 20. Since they were presented to the Bills Committee, I will not go over them one by one again here.

Conclusion

Acting President, as I mentioned when the Bill was introduced into this Council, the Bill, when enacted, will

help reinforce Hong Kong's position as a leading international arbitration centre in Asia Pacific. We believe that the arbitration regime of Hong Kong will be further improved by the proposed amendments.

With these remarks, I urge Members to support the Second Reading of the Arbitration (Amendment) Bill 2013 and endorse the amendments proposed by the Administration at the subsequent Committee Stage.

Note: The new parties are Fiji, Liechtenstein, Sao Tome and Principe and Tajikistan.

Ends/Wednesday, July 10, 2013