

LCQ15: HK as centre for international legal and dispute resolution services in Asia-Pacific region

Following is a written reply by the Secretary for Justice, Mr Rimsky Yuen, SC, to a question by Hon Dennis Kwok in the Legislative Council today (June 18):

Question:

In his 2014 Policy Address, the Chief Executive (CE) said that "[t]he Government will continue to actively promote Hong Kong's legal and dispute resolution services to enhance our status as a centre for international legal and dispute resolution services in the Asia-Pacific region". Also, in reply to questions raised by Members of this Council on the Estimates of Expenditure 2014-2015, the Government indicated that an Advisory Committee on Promotion of Arbitration (the Advisory Committee) would soon be established, which will advise on and co-ordinate on-going and new initiatives for the promotion of Hong Kong's arbitration services in the Asia Pacific region. On the other hand, Hong Kong has recently lost out to Sydney in the bid for the right to host the 2018 Congress of the International Council for Commercial Arbitration (ICCA Congress). In this connection, will the Government inform this Council:

(1) whether it has assessed the reasons for Hong Kong losing the bid for hosting the aforesaid ICCA Congress; if it has, of the findings and details of the assessment, as well as the follow-up actions; if not, the reasons for that;

(2) whether it has studied if there are other international arbitration conferences, similar to the aforesaid ICCA Congress, in the near future that Hong Kong may bid for the right to host them; if it has, of the findings and details of the study; if not, the reasons for that;

(3) of the latest progress of the establishment of the

Advisory Committee, including when it will be established as well as its proposed terms of reference, composition and work plans;

(4) whether it has plans to invite international legal bodies and arbitration institutions, such as the London Court of International Arbitration, Arbitration Institute of the Stockholm Chamber of Commerce and the Permanent Court of Arbitration in Hague, to set up regional offices in Hong Kong; if it does, of the details of such plans; if not, the reasons for that; and

(5) whether it has plans to assist the Hong Kong International Arbitration Centre (HKIAC) in gaining recognition as a formal arbitration commission on the Mainland, and/or obtaining other relevant legal status on the Mainland, so as to enable HKIAC to enter the Mainland arbitration field; if it does, of the details of such plans; if not, the reasons for that?

Reply:

President,

The Hong Kong Special Administrative Region (HKSAR) Government has been making every possible effort to consolidate and enhance Hong Kong's status as a centre for international legal and dispute resolution services in the Asia Pacific region, and will continue to do so. We will step up our promotional efforts, improve the legal framework for arbitration and mediation, and work closely together with all the relevant stakeholders.

Our replies to each of the five parts of the question are as follows:

(1) The International Council for Commercial Arbitration (ICCA) is a worldwide organisation devoted to promoting the use and improving the processes of arbitration, conciliation

and other forms of resolving international commercial disputes. An ICCA Congress is held every two years for the presentation and discussion of papers on different aspects of international dispute resolution. Hong Kong featured prominently, for example, during the recent ICCA Congress held in Miami in April 2014.

The Hong Kong International Arbitration Centre, with the full support of the HKSAR Government, had submitted its bid to host the 2018 ICCA Congress in Hong Kong. Despite the ICCA's decision to host the 2018 Congress in Sydney and we were not privy to the deliberation involved, we do not see any ground to doubt the competitiveness of Hong Kong as a leading centre for international legal and dispute resolution centre in the Asia Pacific region.

Indeed, we understand from the HKIAC that the ICCA has resolved to hold one of its important events, namely, its Governing Board annual meeting, in Hong Kong in 2015. Such a decision represents a vote of confidence on the part of ICCA in the significant role played by Hong Kong as a centre for international arbitration. The annual meeting will provide Hong Kong with a valuable opportunity to showcase the best that the city could offer to leading arbitration practitioners and end-users of arbitration around the world.

(2) As a leading centre for international legal and dispute resolution centre in the Asia Pacific region, Hong Kong hosts important arbitration conferences and events from time to time.

In the near future, apart from the ICCA Governing Board annual meeting in 2015 (as mentioned in Part (1) above), the Chartered Institute of Arbitrators based in London will be celebrating its Centennial in Hong Kong in March 2015. Based on information provided by the HKIAC, the International Federation of Commercial Arbitration Institutions will also host its annual meeting in Hong Kong in 2017.

The Government will, as always, render our support to the hosting of important arbitration conferences and events in Hong Kong which can showcase our strengths and enhance our competitiveness in the provision of arbitration services.

(3) To step up the joint efforts between the Department of Justice and the legal/arbitration sector to foster the development and growth of arbitration in Hong Kong, the Government announced in the 2014 Policy Agenda that an Advisory Committee on Promotion of Arbitration will be established.

The Advisory Committee will be chaired by the Secretary for Justice and its members will be drawn from the legal profession, the arbitration sector (including arbitration institutions) as well as other related institutions. Preparation work is underway, and the membership as well as the terms of reference will be announced in due course.

(4) The Department of Justice plays an active role in attracting world class arbitration organisations to establish offices or conduct arbitration in Hong Kong. At our request, the Central People's Government (CPG) has commenced negotiation of a host country agreement with the Permanent Court of Arbitration with the aim of facilitating the conduct of dispute settlement proceedings in Hong Kong. This will help attract more investment arbitrations to be conducted in Hong Kong. Ever since the HKSAR Government expressed interest in the matter, the CPG has been providing strong support in this matter.

In addition, the China Maritime Arbitration Commission (CMAC) has also confirmed its in-principle agreement to set up a branch office in Hong Kong in the latter part of 2014. As in the case of China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center, this

will be the first branch office of CMAC outside the Mainland.

To reinforce Hong Kong's status as an international arbitration hub, the Department of Justice will continue to engage in discussions with other reputable arbitration organisations and explore the feasibility of their establishing a presence in Hong Kong.

(5) The HKIAC has been actively pursuing its initiatives to promote its work and business in the Mainland. This includes the possibility of being the first arbitration institution from outside the Mainland to set up and administer arbitrations in the Mainland.

In this connection, the Department of Justice has been actively pursuing the proposal of allowing Hong Kong arbitration institutions to set up offices in the Mainland so as to provide arbitration services directly to Mainland enterprises.

The Department has also suggested to the relevant authorities in the Mainland that, if these proposals cannot be implemented on a nation-wide basis, consideration should be given to implementing them on a pilot-basis in areas such as Beijing and/or the Shanghai Free Trade Zone.

The Department will continue to collaborate closely with arbitral bodies and liaise with relevant mainland authorities with a view to securing greater market access in the Mainland for Hong Kong arbitration institutions and practitioners.

Ends/Wednesday, June 18, 2014