

SJ's speech at 19th International Congress of Maritime Arbitrators (English only)

Following is the speech by the Secretary for Justice, Mr Rimsky Yuen, SC, at the 19th International Congress of Maritime Arbitrators today (May 11):

Mr (Bruce) Harris, Mr (Arthur) Bowring, Professor (Anthony) Cheung, distinguished guests, ladies and gentlemen,

Good morning. It is my great pleasure to join you at this Opening Ceremony of the 19th International Congress of Maritime Arbitrators (ICMA). I am most honoured to have the opportunity to address such a distinguished audience from all over the world. First of all, on behalf of the Government of the Hong Kong Special Administrative Region (HKSAR), I would like to extend our warmest welcome to all the delegates and participants who take part in this Congress.

ICMA Conference

The month of May 2015 is a hectic but fruitful month for the legal and arbitration communities in Hong Kong, as we are hosting four international legal and arbitration events in Hong Kong this month. And this Congress is one of them.

ICMA has been an important forum for maritime arbitrators, lawyers and the shipping industry from around the world to exchange views and share experience on matters relating to maritime arbitration. While Hong Kong was the host of ICMA in 1994, I believe the decision for ICMA to hold this conference in Hong Kong for the second time speaks volumes on Hong Kong's position as an international maritime centre as well as a hub for international legal and dispute resolution services in the Asia-Pacific region.

Hong Kong as a shipping hub and international legal and dispute resolution centre

Hong Kong's deep water harbour and the shipping industry that it has developed have always been central to Hong Kong's activities. Hong Kong is home to a strong base of shipowners who own and manage a sizeable tonnage of the world's commercial fleet, and also hundreds of shipping-related firms providing diversified maritime services in ship management, ship broking and chartering, maritime insurance, as well as related legal services and dispute resolution services including arbitration and mediation.

Geographically convenient, superbly well served and located on the Far East trade routes, Hong Kong lies at the centre of the Asia-Pacific region, the fastest growing region in the world. Hong Kong's trade volume is amongst the top 10 in the world despite its small size and limited natural resources.

In addition to Hong Kong's status as the most effective springboard to the Mainland China market, China's latest "One Belt, One Road" vision and the recent launch of the Asian Infrastructure Investment Bank have further opened up immense business opportunities for many businesses, including, of course, the maritime industry. Hong Kong, as a Special Administrative Region of China with a long history of serving as a strategic trading port linking up the West and the East, stands ready to benefit from this vision.

Accordingly, not only is Hong Kong a centre of economic and shipping activities, it is also a natural venue for the resolution of commercial disputes, including those involving the maritime industry. With its skill at blending the best of the East and the West, it is uniquely placed to be the focus in the Asia-Pacific region for commercial and maritime dispute resolution services.

As a matter of fact, it has been the steadfast policy of the HKSAR Government to enhance Hong Kong's role as a

leading centre for international legal and dispute resolution services in the Asia-Pacific region. To this end, the Department of Justice set up in December 2014 the Advisory Committee on Promotion of Arbitration chaired by me to facilitate the overall co-ordination and strategic planning for the future development and promotion of arbitration services, including maritime arbitration, with a view to taking the promotion of Hong Kong's arbitration services to a new height. Allow me to make use of this opportunity to highlight four key attributes that underpin Hong Kong's unique advantages as an ideal neutral venue for international arbitration.

(1) The rule of law

Under the principle of "One Country, Two Systems" enshrined in our Basic Law, Hong Kong maintains its common law tradition which is familiar to the international business community.

The rule of law, including the principle of judicial independence, is firmly entrenched in Hong Kong's constitutional regime. Article 85 of the Basic Law provides that "The courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference". Further, Article 82 of the Basic Law provides that the power of final adjudication of Hong Kong shall be vested in the Court of Final Appeal. And Hong Kong is extremely lucky to have distinguished judges from other common law jurisdictions, including England and Wales, Australia and New Zealand, serving as Non-Permanent Judges of our Court of Final Appeal. The Hong Kong Judiciary is indeed well known for its quality and independence and its pro-arbitration approach is well reflected in our court judgments.

Some of our overseas friends may wonder if the rule of law in Hong Kong has been affected by the "Occupy Movement"

last year. I can assure you that, notwithstanding the short-term public disorder, the city's rule of law remains absolutely robust. As many keen observers of Hong Kong can testify, the challenges that we faced last year have no adverse impact whatsoever on our ability to provide first-class legal and arbitration services.

(2) A sophisticated legal and dispute resolution community

Our legal and arbitration communities are endowed with a pool of international arbitrators and lawyers with diverse backgrounds in terms of professional expertise, nationalities and jurisdictions. They are instrumental in satisfying the demand for legal and dispute resolution services associated with international and Mainland-related investments, both inbound and outbound. Hong Kong law firms have established a strong network with, and clientele in, both international and Mainland businesses.

(3) Robust legal regime

In Hong Kong, the user-friendliness of arbitration is well supported by a purpose-built modern legislative framework. Our Arbitration Ordinance came into effect in June 2011. It is based on the 2006 version of the UNCITRAL Model Law on International Commercial Arbitration, which is very familiar to the international arbitration community. We have also been working closely with the arbitration community to update the arbitration regime regularly to ensure that the latest developments in the international arbitration scene can be promptly reflected in our legislation. Recent amendments concerning the enforcement of emergency arbitral awards are but one of the examples.

Hong Kong has an extensive network for enforcing arbitral awards. At the moment, arbitral awards made in Hong Kong are enforceable in 150 signatory states of the New York Convention. In addition, arbitral awards made in Hong Kong

can be enforced in the Mainland and Macau through arrangements made between Hong Kong and these jurisdictions respectively for reciprocal enforcement of arbitral awards. These arrangements are, if I may add, also modelled on the New York Convention.

(4) World-class arbitration institutions

Both ad hoc and institutional arbitration are allowed under our arbitration regime. While many maritime disputes are resolved through ad hoc arbitrations, for those parties opting to use the service of an arbitration institution, they may prefer to conduct their proceedings within the ambit of an already established set of arbitration rules provided by a particular institution and make use of the infrastructure and support services of such an institution. In this regard, Hong Kong is proud to host a number of world-class arbitration institutions.

The Hong Kong International Arbitration Centre (HKIAC), which was established in 1985, has since been the focal point of arbitration in Hong Kong and beyond. Over the past 30 years, the HKIAC has earned international recognition and has formulated several sets of rules for both institutional and ad hoc arbitrations. In particular, the HKIAC has adopted a set of Small Claims and "Documents Only" Procedures for maritime arbitrations. Both sets of procedures have been adopted, with permission, substantially unchanged from those used by the London Maritime Arbitrators Association. The Hong Kong Maritime Arbitration Group, a division of the HKIAC, also maintains a List of Hong Kong Maritime Arbitrators and a List of HKIAC Accredited Mediators with maritime experience.

In recent years, many reputable arbitration institutions have chosen Hong Kong as the first location to establish their presence outside their home jurisdictions. These include the Secretariat of the International Court of Arbitration of the International Chamber of Commerce, the

China International Economic and Trade Arbitration Commission and the China Maritime Arbitration Commission.

In January this year, the Permanent Court of Arbitration (PCA) signed a host country agreement with the Central People's Government and a related memorandum of administrative arrangements with the HKSAR Government to facilitate the conduct of PCA-administered arbitration in Hong Kong, including state-investor arbitration.

Action speaks louder than words. These are all votes of confidence in the rule of law and the world-class legal infrastructure of Hong Kong. Besides, not only does their presence in Hong Kong testify to Hong Kong's position as an international arbitration centre, it provides end users of arbitration with a wealth of choice as and when the need arises.

Conclusion

Ladies and gentlemen, at the national level, the Central People's Government of China has indicated continuous support under the National 12th Five-Year Plan for Hong Kong to develop its maritime services and to enhance its status as an international maritime centre. Coupled with the efforts on the part of the HKSAR Government to reinforce Hong Kong as a regional centre for international legal and dispute resolution services in the Asia-Pacific region, Hong Kong will continue to capitalise on its geographical and institutional advantages and develop high value-added maritime services, including maritime legal and dispute resolution services, to better serve our users.

On this note, it remains for me to thank the Hong Kong Maritime Arbitration Group for taking up the challenge of hosting this important international maritime event, with the support of the Hong Kong Shipowners Association and the Hong Kong Trade Development Council. Thanks also go to the Steering Committee and the Topics and Agenda Committee of ICMA, for

agreeing to host this conference in Hong Kong. May I wish this conference every success and, for those coming from overseas, an enjoyable stay in Hong Kong.

Thank you.

Ends/Monday, May 11, 2015