

Secretary for Justice's speech at "Legal and Dispute Resolution: Key for International Trade" seminar (English only)

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Following is the opening address by the Secretary for Justice, Mr Rimsky Yuen, SC, at the seminar "Legal and Dispute Resolution: Key for International Trade" in Jakarta, Indonesia, today (September 17):

Dr (Cita) Citrawinda (Chairman, Indonesian Intellectual Property Attorneys Association), Professor (Huala) Adolf (Vice-President, Indonesia National Board of Arbitration), distinguished guests, ladies and gentlemen,

It is my great pleasure to welcome you all to this seminar co-organised by the Department of Justice of the Hong Kong Special Administrative Region (Hong Kong SAR) and the Hong Kong Trade Development Council.

Apart from the ties in other areas, Hong Kong and Indonesia are very close trading partners. With the growth in the ASEAN (Association of Southeast Asian Nations) economies and a surge in trade between ASEAN countries and China, the future development is going to be even better. As the best gateway to the Mainland and as an international financial and commercial centre, Hong Kong will play an important role in such future development. There is undoubtedly a lot of room for co-operation between Hong Kong and Indonesia, with plenty of opportunities to create win-win situations that serve our mutual interests.

We all know that Hong Kong is a good place to do business. And of course a good place to do shopping. But Hong Kong has more to offer. For the present purpose, let me focus on legal risk management and dispute resolution.

Risk management plays a crucial role in the context of

international business. From the conception of overseas investments up to the negotiation and eventual performance of contract, enterprises have to watch out for and manage business and legal risks. Besides, business disputes do arise from time to time, and there is a need to put in place robust means to tackle and resolve business disputes.

This brings me to the key message of today's seminar - Hong Kong, as a leading international legal and dispute resolution services centre in the Asia-Pacific region, can come in handy for Indonesia amidst its rapid economic growth and increasing international trade. Whilst members of the Hong Kong legal delegation will speak to you on specific topics, let me highlight five key features that underpin Hong Kong's unique position.

(1) The rule of law

Hong Kong is part of China. However, under the principle of "one country, two systems" enshrined in our Basic Law, Hong Kong remains a separate legal jurisdiction and 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 our constitutional regime. One unique feature of our system is that distinguished judges from other common law jurisdictions, including the United Kingdom, Australia and New Zealand, sit in our Court of Final Appeal and participate in the determination of important cases of all kinds. Not only does this arrangement enrich our common law tradition, it enhances international confidence in the independence and quality of Hong Kong's Judiciary.

(2) Unique Mainland advantages

Geographically convenient, superbly well served and

located on the Far East trade routes, Hong Kong lies at the centre of the Asia-Pacific region and has long been serving as the springboard to the Mainland market. In addition, China's latest "Belt and Road" Initiative and the recent launch of the Asian Infrastructure Investment Bank would no doubt generate immense business opportunities, and I am sure our friends in Indonesia would be looking into these opportunities with great interest. 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 co-operate with other business communities to explore such business opportunities, as well as to offer our top-quality professional services.

(3) Robust legal system

Globalisation and regional integration have changed the landscape of dispute resolution drastically. International arbitration is now the preferred, instead of alternative, means of dispute resolution. In Hong Kong, the conduct of arbitration is well supported by a modern legal infrastructure and offers advantages that go well beyond traditional court litigation. Our Arbitration Ordinance facilitates effective dispute resolution, while at the same time respects parties' autonomy and confidentiality. It is based on the latest version of the UNCITRAL (United Nations Commission on International Trade Law) Model Law on International Commercial Arbitration, which is familiar to the international community.

Parties who choose to conduct arbitration in Hong Kong may retain advisers without restrictions on their nationalities and jurisdictions. Hence, Indonesian companies and lawyers may choose to team up with Hong Kong lawyers for the purpose of conducting arbitration in Hong Kong to achieve the best outcome.

Further, Hong Kong has an extensive network for

enforcing arbitral awards. Arbitral awards made in Hong Kong are enforceable in 150 signatory states of the New York Convention, including Indonesia. In addition, arbitral awards made in Hong Kong can be enforced in the Mainland and the Macau SAR through reciprocal arrangements modelled on the New York Convention.

(4) World-class arbitration institutions in Hong Kong

Both ad hoc and institutional arbitration are allowed under our arbitration regime. For those who prefer to use the service of an arbitration institution, Hong Kong has a lot to offer.

Our home-grown 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, whether in terms of administration, services and hearing facilities.

Further, Hong Kong has attracted many world-class arbitral institutions to establish their presence in Hong Kong. Indeed, many internationally well-known arbitration institutions have chosen Hong Kong as the first location to establish their presence outside their home jurisdictions. These include the Secretariat of the Paris-based International Chamber of Commerce, the China International Economic and Trade Arbitration Commission and the China Maritime Arbitration Commission.

In January this year, arrangement was made with the Permanent Court of Arbitration (PCA) so as to facilitate the conduct of PCA-administered arbitration in Hong Kong, including state-investor and other forms of international investment arbitration. Given the growing importance of investment arbitration, this arrangement with the PCA places Hong Kong in an even better position to provide high-end

dispute resolution services to the international business community. Given the fact that Indonesia has signed 71 Bilateral Investment Treaties with other countries (of which 47 have entered into force) and that Indonesia has ratified the ASEAN Comprehensive Investment Agreement, I would urge our friends from Indonesia to consider conducting investment arbitration in Hong Kong when the need arises.

Not only do these international arbitration institutions offer abundant choices for the end users, their decisions to establish their presence in Hong Kong provides strong testimony of their confidence in Hong Kong's status as an international arbitration centre in the region.

(5) Diversified mediation services

Apart from international arbitration, Hong Kong is well placed to offer mediation services for resolving commercial disputes. In the past few years, not only have we enacted the Mediation Ordinance so as to provide an appropriate legislative framework for the conduct of mediation in Hong Kong, we have set up the Hong Kong Mediation Accreditation Association Ltd. for the purpose of overseeing the quality and training of mediators.

The theme of Session 2 of today's seminar is how Indonesian companies can be more vigilant in protecting their intellectual property (IP) rights. This theme is highly pertinent, since Asia is now the fastest-growing region in the world in terms of the number of IP applications. In this regard, the Hong Kong SAR Government is actively facilitating the marriage of IP protection and dispute resolution. Given Hong Kong's dual status as a leading centre for international legal and dispute resolution services as well as a premier IP trading hub in the region, this marriage will generate synergy and enable Hong Kong to offer the much sought after services in the region. Amongst others, steps are being taken to strengthen the legal framework for IP arbitration and to

promote the use of both facilitative and evaluative mediation for resolving IP disputes.

The Hong Kong platform for legal risk management

In the context of legal risk management, Hong Kong is well positioned to provide a wide spectrum of services for corporations from different jurisdictions, including companies from Indonesia and other ASEAN economies seeking to expand their markets overseas and, in particular, in Mainland China.

Our strong pool of local and overseas legal professionals, with a wealth of experience and expertise in many different areas, are best positioned to offer risk assessment-based advice touching on multiple practice areas to enable international companies to effectively avoid, manage and control legal risks and disputes at each and every stage of their business process. With its strategic geographical location as Asia's world city, I would venture to suggest that Hong Kong is second to none if Indonesian companies are looking for an ideal legal hub with a strong base of and extensive connections with international law firms, providing a holistic and cost-effective approach to the provision of legal services to companies doing cross-border or international trade.

Concluding remarks

Ladies and gentlemen, Hong Kong is keen to strengthen our legal co-operation in civil and commercial matters with Indonesia and other ASEAN countries. We believe such co-operation will be in our mutual interests. We welcome you to use the Hong Kong platform to achieve expansion to the international market as well as to enter the Mainland China market. We also look forward to joining hands with Indonesia to foster an even closer economic co-operation, and to jointly make contributions to create a sustainably prosperous ASEAN

market.

On this note, it remains for me to thank the Hong Kong Trade Development Council for co-organising this seminar with us, as well as to thank all the speakers and panellists for sharing with us their insights and experience and all of you for attending this seminar. May I wish this seminar every success, and wish all of you a fruitful day. Thank you.

Ends/Thursday, September 17, 2015