

Opening remarks by Secretary for Justice at seminar on "Legal Risk Management: Key to International Trade and Investment" (English only)

Following is the opening remarks by the Secretary for Justice, Mr Rimsky Yuen, SC, at the seminar on "Legal Risk Management: Key to International Trade and Investment" in Bangkok, Thailand, today (October 6):

Mr (Pasit) Asawawattanaporn (Managing Director, Thailand Arbitration Center), distinguished guests, ladies and gentlemen,

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

Thailand and Hong Kong are closely linked in many contexts, including trade and commerce. Indeed, Thailand was Hong Kong's eighth largest trading partner last year. With the growth in the ASEAN economies and a surge in trade between ASEAN countries and China, the future development is destined to be even brighter. As the gateway to Mainland China and as an international financial and commercial centre, there is certainly a lot of room for co-operation between Hong Kong and Thailand, with plenty of opportunities to create win-win situations that serve our mutual interests. Today, may I take this opportunity to highlight some of the key attributes of Hong Kong as a centre for international legal and dispute resolution services in the Asia-Pacific region.

The rule of law

As you know, Hong Kong is a Special Administrative Region (SAR) of the People's Republic of China. Under the "one country, two systems" policy, Hong Kong remains a

separate legal jurisdiction and maintains its common law system. Not only is the international business community familiar with the common law system, it is highly conducive to the development of trade and commerce.

The judiciary in Hong Kong is internationally well known for its quality and independence. Under the Basic Law, our constitutional document, the power of final adjudication is vested in the Court of Final Appeal of Hong Kong, which may invite judges from other common law jurisdictions to hear cases. Currently, apart from our local judges, there are about 10 such overseas judges. They are leading judges from other common law jurisdictions, including Australia and the United Kingdom. This arrangement helps to enrich our common law tradition, and also fortifies international confidence in the independence of our judiciary. In the Global Competitiveness Report 2016-17 published by the World Economic Forum, Hong Kong was ranked third in judicial independence amongst the common law jurisdictions and the first in Asia. Operating under a well-developed legal infrastructure, our independent judiciary plays a crucial role in ensuring a level playing field between businesses from anywhere and between businesses and the Government.

A robust legal system

Nowadays, arbitration is a very popular means of dispute resolution for international commercial transactions. In Hong Kong, not only are our courts supportive of the use of arbitration, its conduct is governed by a modern legal framework. Our Arbitration Ordinance is based on the latest version of the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law, which is also familiar to the international business and arbitration communities.

In Hong Kong, parties in international arbitration may

retain their own advisers without restrictions as to their nationalities and professional qualifications. In other words, Thai companies and lawyers may conduct international arbitration in Hong Kong on their own or team up with Hong Kong lawyers to achieve the best outcome.

Hong Kong also has an extensive network for enforcing arbitral awards. Arbitral awards made in Hong Kong are enforceable in over 150 jurisdictions which are contracting states to the New York Convention, including Thailand. Arbitral awards made in Hong Kong can also be enforced in Mainland China and the Macau SAR through reciprocal arrangements with these jurisdictions.

World-class arbitral institutions

The presence of many world-class arbitral institutions in Hong Kong also makes Hong Kong a preferred venue for conducting arbitration. Our home-grown Hong Kong International Arbitration Centre has been the focal point of international arbitration in Hong Kong since its establishment in 1985.

Over the years, other reputable arbitral institutions have also established their presence in Hong Kong. These include the Secretariat of the International Court of Arbitration of the Paris-based International Chamber of Commerce, the China International Economic and Trade Arbitration Commission and the China Maritime Arbitration Commission.

In January 2015, the Permanent Court of Arbitration (PCA) signed a host country agreement with the Central People's Government to facilitate the conduct of PCA-administered arbitration in Hong Kong, including state-investor arbitration. At the same time, a related memorandum of administrative arrangements was signed between the PCA and the Hong Kong SAR Government. As

Thailand has signed 39 Bilateral Investment Treaties with other jurisdictions (of which 36 are in force) and a number of investment treaties including the ASEAN Comprehensive Investment Agreement, I would venture to suggest Thai businesses should seriously and favourably consider conducting investment arbitration in Hong Kong when the need arises.

Hong Kong as an international arbitration hub

With an advanced arbitration regime in place, Hong Kong is highly regarded as an important arbitration hub. In the latest 2015 International Arbitration Survey conducted by Queen Mary University of London, Hong Kong came third globally as the preferred seat of arbitration, just behind London and Paris.

Mediation

Apart from arbitration, Hong Kong is also committed to promoting mediation services including cross-border commercial mediation. In 2012, we enacted the Mediation Ordinance which provides a flexible regulatory framework for the conduct of mediation. Its objects are to promote and facilitate the resolution of disputes by mediation, and at the same time protect the confidential nature of mediation proceedings.

The Hong Kong mediation community is keen on sharing their experience with their counterparts in the region. In August this year, the China Council for the Promotion of International Trade - Hong Kong Mediation Centre Joint Mediation Center held an advanced mediation training course in Bangkok for 38 mediators from the Thailand Arbitration Center. These mediators are from diverse backgrounds, including professors, hospital administrators, law firm partners, police officers, government officials and businessmen from Thailand, Singapore and Malaysia.

Conclusion

Ladies and gentlemen, Hong Kong stands ready to strengthen our legal co-operation in civil and commercial matters with Thailand. It is indeed our privilege that representatives of Hong Kong's legal and dispute resolution bodies have this opportunity today to share with you their viewpoints and professional experience.

On this note, it remains for me to wish the Seminar every success, and also to wish you a fruitful conference.

Thank you.

Ends/Thursday, October 6, 2016