

Speech by Secretary for Justice at Reception for International Law Firms (English only)

Following is the speech by the Secretary for Justice, Mr Wong Yan Lung, SC, at the Reception for International Law Firms today (November 16):

Good evening, [Mr] Mike [Rowse], [Mr] Ron [Arculli], ladies and gentlemen, lawyer friends from the Mainland,

Introduction

It gives me great pleasure to welcome you to this Reception for International Law Firms organised by Invest Hong Kong at the Club Lusitano.

On the wall of the front door of the Club there is a plaque recording that this building was opened by Colonel Henry Botelho, who apart from his war service, was Law Draftsman of the Legal Department of Hong Kong, now my department the Department of Justice.

The Department of Justice is home to about 300 lawyers. We have colleagues from United Kingdom, Australia, New Zealand, Canada, Sri Lanka and other jurisdictions. In fact, our new Law Draftsman Mr. Eamon Moran QC who will be joining us early next year, is the current Chief Parliamentary Counsel of Victoria Australia, and the newly elected President of the Commonwealth Association of Legislative Counsel.

Foreign law firms in Hong Kong

Hong Kong has traditionally been open to talent from around the world and the presence of international law firms continues that tradition. "International Law Firm" can be locally born because their composition of lawyers and the scope of work are truly international in nature. In the gathering among us this evening are members of a local law firm which was founded over a hundred years ago.

Strictly speaking, there are 54 registered foreign law firms in Hong Kong, but most of the 1000 or so registered foreign lawyers work in local law firms.

The statutory provisions which allow for the registration of foreign lawyers and foreign law firms were only added to our Legal Practitioners Ordinance in 1994. It is a measure of the success of

the scheme that one in seven of all lawyers in law firms in Hong Kong is now a registered foreign lawyer.

Three topical matters

I don't need to extol to you the benefits of living and practising law in Hong Kong. In my view, they clearly outweigh any disadvantages you can think of, although I know that air quality is of concern. You may have noticed, however, that the Chief Executive in his recent Policy Address has given improvement of air quality and other environmental issues a very high priority. And you must have noticed the blue sky and lovely sunshine we have been enjoying in the past week or so.

Instead, I would like to bring to your attention three topical issues which may be of interest to you in your practice in Hong Kong.

Arbitration

Firstly, as you may be aware, in 1999, arrangements were made for reciprocal enforcement of arbitral awards between Hong Kong and the Mainland. And in the following year, amendments were enacted to the Arbitration Ordinance to implement those arrangements.

But doubt has subsequently been expressed as to whether the arrangements cover not only arbitrations under the auspices of the respective arbitration bodies, but also ad hoc arbitrations. I am pleased to inform you, that following my visit to Beijing earlier in September, I have received confirmation from the Supreme People's Court that the reciprocity does indeed extend to cover awards in ad hoc arbitrations.

As to other reciprocal arrangements with the Mainland, you will know that in 2006 agreement was reached on the reciprocal recognition and enforcement of civil court judgments in commercial disputes. The legislation to implement those arrangements is currently being considered by the Legislative Council and I expect it to be enacted in the near future.

Secondly, as you noticed in the Policy Address, we gave international arbitration a very high priority. This is a highly competitive business. We are liaising with international bodies to see what we can do to develop Hong Kong into a regional arbitration centre. On arbitration matters more generally, my Department, with the assistance of experts in the arbitration field, have been reviewing the Arbitration Ordinance. We are in

the course of finalising a Consultation Paper annexing a draft Arbitration Bill which is proposed to replace the existing Ordinance. The draft Bill is intended to bring domestic arbitration in line with international arbitrations by adopting the UNCITRAL Model Law on Arbitration as the basis for conducting all arbitral proceedings in Hong Kong.

I very much look forward to receiving your comments and suggestions on the draft Bill, which we hope will make our law more user-friendly, especially for foreign investors, who may be more familiar with the UNCITRAL Model Law.

Solicitors' Rights of Audience

Thirdly, it may be of interest to those of you practising in local law firms that the Chief Justice's Working Group on Solicitors' Rights of Audience has completed its deliberations, and I expect a report will be released shortly.

The Department of Justice will consider the report carefully before deciding on the way forward. Without speculating on the recommendations of the report, although many of you may have some idea of the direction it is going, you may be interested to know that the solicitors' branch of profession enjoyed rights of audience in the higher courts of Hong Kong before 1925.

One request

Lastly, my request to you. Each year the Department of Justice arranges for a number of lawyers from Mainland government departments and agencies to come to Hong Kong to take a Master of Laws degree at Hong Kong University. That programme, which introduces participants to the Common Law system, will in due course be expanded to include a similar course at the Chinese University of Hong Kong.

At the conclusion of the course, the participants are attached to a law firm in Hong Kong for a period of approximately three months. A number of you have very generously offered a place in the past, but with the proposed expansion of the programme, it will be necessary to find additional places. We shall be writing to you in due course to seek your help. I should be most grateful if you could see your way to assisting in this very worthwhile project.

Conclusion

On that note, may I conclude by thanking Mike for organising this reception and wishing you all good health and happiness in the years to come.

Thank you.

Ends/Friday, November 16, 2007