

**19th International Congress of Maritime Arbitrators
Hong Kong, 2015**

**Opening Address of the Hong Kong Session by
Mr Frank Poon, Solicitor General
Department of Justice**

on Friday, 15 May 2015 at the Kowloon Shangri La Hotel

Good morning, Distinguished Guests, Ladies and Gentlemen,

It is my great pleasure today to join you at the 19th Congress. I extend my warmest welcome to those who have travelled to Hong Kong from overseas.

2. The vote of confidence in Hong Kong's business environment has been overwhelming since the handover in 1997. In the 2015 Index of Economic Freedom jointly released by the Heritage Foundation and the Wall Street Journal, Hong Kong ranked first in the world for the 21st consecutive year. Furthermore, the Global Financial Centre Index published by the Z/Yen Group based in London lists Hong Kong as the third global financial centre, after New York and London.

Hong Kong's success anchored on the rule of law

3. The rule of law entrenched in our legal system is the reason for our success as a free economy and a global financial centre. Our legal system directly benefits from the concept of "one country, two systems" enshrined in the Basic Law of Hong Kong. The Basic Law has the status of a constitutional document. Hong Kong continues to practise the common law. It retains its separate legal system. Furthermore, it has its own Court of Final Appeal. There is indeed a complete segregation of the legal system of Hong Kong and the legal system of Mainland China.

4. Judicial independence is critical to the rule of law. It is not only a necessary pre-condition for long-term sustainable economic growth, it is also crucially important for the development of our society and an open and accountable government. On our part, the Department of Justice will spare no efforts to ensure that the rule of law, including the independence of the judiciary, continues to thrive in Hong Kong, not least because this is Hong Kong's strongest comparative advantage.

Hong Kong as a Venue for Arbitration

5. This may be a useful opportunity to clarify that Hong Kong remains an excellent venue, if not a more suitable one, for resolution of disputes involving Mainland Chinese parties because of the strength of our legal system and our adherence to the rule of law. We have from time to time come across argument that because of the fact that Hong Kong is now a part of China, it may not be able to serve as a neutral venue for disputes involving Mainland China. Such an assertion may arise either out of ignorance of the actual situation in Hong Kong or as an argument used by a party to a dispute to favour a venue of its choice.

6. In a very recent case *Shagang South-Asia (Hong Kong) Trading Co Ltd v Daewoo Logistic Corporation*¹ heard in the High Court of England and Wales, *Daewoo* as owners chartered their vessel to *Shagang* (probably a Hong Kong subsidiary of a Mainland corporation) as charterers by a fixture note. The fixture note provides for "arbitration to be held in Hong Kong. English law to be applied". When *Shagang* sought to challenge the English arbitration and the appointment of the sole arbitrator by *Daewoo*, the question of convenience of venue was argued. The judge, Mr Justice Hamblen, said in his judgment that the question of inconvenience of London as a venue for the parties in this case was relevant, but no more than that. He went on to say "moreover, while Hong Kong is no doubt geographically convenient, it is also a well-known and respected arbitration forum with a reputation for neutrality, not least because of its supervising courts". In the end the judge found that the arbitration under the contract was subject to Hong Kong procedure law rather

¹ [2015] EWHC 194 (Comm)

than English procedure law and the appointment of the sole arbitrator by the owners was invalid. I hope more judges and lawyers outside Hong Kong have the same understanding of Hong Kong as Mr Justice Hamblen.

Hong Kong Dispute resolution services

7. As aptly put by Lord Bingham in his book “The Rule of Law”, one essential element of the rule of law principle is that means must be provided for resolving *bona fide* civil disputes in an effective and efficient manner. In this connection, Hong Kong indeed has a good reputation and track record for resolving international commercial disputes. We have experts and institutions to ensure that Hong Kong continues to excel in international dispute resolution. In the area of maritime and shipping arbitration, London still leads the rest of the world. Hong Kong is determined to hold ourselves out as a viable and good choice of venue for parties involved in maritime and shipping cases. We are optimistic about the future as China’s economic influence is growing and it is pursuing the economic policy of investing in port and shipping infrastructures, not only in China but the rest of the world.

8. Ladies and Gentlemen, I highlight Hong Kong’s competitive edge in arbitration because we have an audience of international maritime arbitrators here. In Hong Kong, as in many developed arbitration jurisdictions, you do not have to be a locally qualified lawyer to serve as an arbitrator or adviser to parties in an arbitration. For this reason, I wish to see you more in Hong Kong, and, on this note, I wish you all a successful conference and a pleasant stay in Hong Kong. Thank you.