

Hong Kong as an International Legal Services Centre

13 December 2012 is an important date in the chronicle of Hong Kong's development as an international legal services centre. It is the date set for the opening ceremony of the Asia Pacific Regional Office ('Regional Office') of the Hague Conference on Private International Law ('Hague Conference'). The fact that the Regional Office is established in Hong Kong represents a vote of confidence in Hong Kong's legal system and the implementation of the 'One Country, Two Systems', as well as reinforces Hong Kong's status as a regional hub of international legal services.

The Government Policy

For years, it has been the policy of the Government to build and maintain Hong Kong as an international legal services centre. The setting up of the Hong Kong International Arbitration Centre in the mid-1980s illustrated the early effort in this direction. In 2008, the International Court of Arbitration of the International Chambers of Commerce established its Secretariat in Hong Kong, which is the very first and thus far the only secretariat outside its headquarters in Paris. In September this year, the China International Economic and Trade Arbitration Commission established its first arbitration centre outside the Mainland. The Government's recent decision to allocate part of the space in the West Wing of the former Central Government Office to house law-related non-government institutions helps to fortify this policy.

This policy plays an important role in promoting the rule of law, and also in maintaining Hong Kong as an international city.

The importance of the rule of law cannot and should not be doubted. I have on previous occasions reiterated the determination of this Administration to steadfastly maintain the rule of law. Although this is not the occasion to discuss in detail the concept of the rule of law, it is necessary to stress that the concept has both domestic and international dimensions. It is of course important to ensure that all Hong Kong people can enjoy their rights and freedom enshrined under the Basic Law, the Bill of Rights and other relevant legislations. It is no less important to ensure that the legal system of Hong Kong and our legal infrastructure can properly interact with those of other jurisdictions and function

efficiently on an international level, so that activities with international elements can be undertaken and regulated (and when necessary, enforcement actions taken) according to a set of common standards consistent with the fundamental concept of the rule of law.

Apart from being an international and cosmopolitan city, Hong Kong is well recognised as an international centre for financial, shipping, logistics and other commercial activities. Amongst others, the availability of a wide range of top quality legal services on both domestic and international level has made significant contribution to this state of affairs. To continue Hong Kong's success story and to maintain an edge over other cities in the Asian Pacific region, it is of utmost importance to enhance Hong Kong's international presence and to ensure that our legal system and legal infrastructure will remain in the forefront of international development. Accordingly, the policy to maintain and enhance Hong Kong's status as an international legal services centre is one which we can ill afford not to pursue.

Hague Conference

The participation in the meetings of the Hague Conference and the efforts made to procure the setting up of its Regional Office in Hong Kong are steps taken in the implementation this policy.

Since its first session in 1893, Hague Conference has since become a global inter-governmental organisation with 72 members (71 states and the European Union). Further, an increasing number of non-member states are becoming parties to Hague Conventions. Its goal is to work for a world in which, despite the differences between legal systems, both natural persons and legal entities can enjoy a high degree of legal certainty.

The principal method used by Hague Conference to achieve its goal is the negotiation, drafting and adoption of multilateral treaties or conventions in different fields of private international law. Conventions hitherto adopted cover a wide variety of matters, including those concerning child abduction, inter-country adoption, protection of children, international recovery of children and family support, divorce, service abroad of judicial and extrajudicial documents, taking of evidence abroad in civil and commercial matters, the abolition of legalisation for foreign public documents, choice of court

agreements and holding of securities by intermediaries. These matters are relevant not only to commercial activities, but also personal and family activities which are likewise becoming more and more international.

Since 1998, representatives from Hong Kong have been participating actively in meetings of the Hague Conference as part of the PRC delegation. This is made possible by the relevant provisions in our Basic Law. In 2008, Hong Kong hosted the Third Asia Pacific Regional Conference of the Hague Conference. Since then, with strong support from the Central Government (especially the assistance of the Ministry of Foreign Affairs), efforts were made to procure the setting up of the Regional Office in Hong Kong. Such efforts came to fruition in April 2012 when the Hague Conference's Council on General Affairs and Policy endorsed the proposal to establish the Regional Office in Hong Kong.

My predecessor, Mr. Wong Yan Lung SC, has previously and aptly likened the work of the Hague Conference to the building of bridges, helping to link up different jurisdictions with different legal systems and traditions around the world. Following this analogy, the setting up of the Regional Office in Hong Kong will make Hong Kong an important hub in this global network of bridges.

The Road Ahead

The question of how Hong Kong should position herself is an important one in shaping Hong Kong's future. On top of sparing no efforts to maintain the rule of law and resolving livelihood issues, it is crystal clear that Hong Kong should stay international. Further steps should be taken to engage with as well as to attract reputable international law-related institutions to establish a regional office or centre in Hong Kong. More efforts should be made in the promotion of Hong Kong as a regional hub of dispute resolution (especially through arbitration and mediation). On the basis of what Hong Kong has thus far achieved and with the support of the relevant stakeholders, the future development in this regard is a promising one.

Rimsky Yuen SC
Secretary for Justice
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