

**Welcome Remarks by Mr Rimsky Yuen SC**  
**Secretary for Justice**  
**2017 CIETAC Conference in Hong Kong**  
**16 October 2017 (Monday)**

Mr. Wang Cheng-jie [Vice-Chairman and Secretary General, CIETAC], Dr. Wang Wen-ying [Secretary General, CIETAC Hong Kong Arbitration Center], Mr. Liu Jingdong [Vice Chairman, 4<sup>th</sup> Civil Division, Supreme People's Court], Distinguished Guests, Ladies and Gentlemen,

First of all, thank you for inviting me to this meaningful conference and for giving me the opportunity to address this distinguished audience. On behalf of the Government of the Hong Kong Special Administrative Region (“HKSAR”) and the Department of Justice (“DoJ”), may I extend our warmest welcome to all of you.

You may notice that, just now, I started off by describing this conference as a “meaningful conference”. I can assure you that this is not a standard opening remark, and I said that because I think this conference undoubtedly provides an excellent platform for legal and dispute resolution experts to exchange views, to share experience as well as to obtain updates on the strategic vision and development of CIETAC and its Hong

Kong Arbitration Center.

One of the topics of today's conference that very much catches my eyes is "*CIETAC in the year of breakthrough*". This is, if I may respectfully say, a very apposite and well-chosen topic. Not only is the year 2017 a year of breakthroughs for CIETAC, the entire history of CIETAC is full of breakthrough in one form or another. In the limited time available, I certainly cannot do justice to all the breakthroughs and milestones in the history of CIETAC. But allow me to highlight a few key examples.

The first breakthrough of course is the establishment of CIETAC in May 1954, when the Central People's Government decided to establish a Foreign Trade Arbitration Commission within the China Council for the Promotion of International Trade. About two years later (that is in April 1956), the Foreign Trade Arbitration Commission was officially established and this Commission is the very body that we now call CIETAC.

From the perspective of the HKSAR, the most relevant breakthroughs of course include the setting up of the Hong Kong Arbitration Centre by CIETAC in 2012, followed by the establishment of the Hong Kong Arbitration Centre by the China Maritime Arbitration Commission ("CMAC") in 2014. Both

these arbitration centres are the first such centres established outside the Mainland, and the HKSAR is very much honoured to enjoy such a privilege.

Following the setting up of the CIETAC Hong Kong Arbitration Centre, the next breakthrough concerns enforcement of arbitral awards. On 13 December 2016, the Nanjing Intermediate People's Court of Jiangsu Province for the first time enforced a CIETAC Hong Kong arbitral award in the Mainland. It has been suggested that the significance of this case lies not only on the fact that this is the first time an arbitral award made by CIETAC Hong Kong is enforced by the Mainland court, but more importantly the court's written ruling specifically identified the Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region (signed in 1999) as the juridical basis for determining whether the arbitral award should be enforced<sup>1</sup>. Besides, many observers in the international arbitration community expect this decision to open up more opportunities for Mainland parties and parties from other jurisdictions to make use of the arbitration services the Centre offers in Hong Kong.

Moving on, if I may, to the breakthroughs achieved by

---

<sup>1</sup> Commercial Dispute Resolution in China: An Annual Review and Preview (2017) (Beijing Arbitration Commission / Beijing International Arbitration Centre) (Wolters Kluwer Hong Kong Ltd.), p. 11.

CIETAC in 2017, the following matters surely will not escape our attention.

First of all, CIETAC has introduced the Appointing Authority Rules in *Ad Hoc* Arbitrations this June. Second, CIETAC has released a set of Guidelines for Third Party Funding for Arbitration this August to provide clear practical suggestions on key aspects of third party funding for arbitration to parties seeking funding, funded parties and the arbitral tribunal. Third, CIETAC has published its own International Investment Arbitration Rules, effective from 1 October 2017.

Each of these breakthroughs is remarkable on its own. *Ad hoc* arbitration is an important, if not integral, component of the international arbitration regime. Some sectors, such as the maritime sector and the insurance sector, generally favour *ad hoc* arbitration over institutional arbitration. The introduction of the Appointing Authority Rules in *Ad Hoc* Arbitration by CIETAC is a step which helps to take the development of the Mainland arbitration legal regime to the next stage of significant development. Once *ad hoc* arbitration is fully recognized and properly resorted to, I believe that the arbitration community will experience yet another exponential growth both in terms of the quantity and quality of arbitration cases.

As regards the Guidelines for Third Party Funding for Arbitration, the DoJ shares the vision with CIETAC. As you may know, we have made two significant amendments to our Arbitration Ordinance in June this year. One of these two amendments clarifies that third party funding for arbitration and mediation is not prohibited by the common law doctrines of maintenance and champerty. To ensure safeguards are in place for funded parties in arbitration, an authorized body will be established by the HKSAR Government before the relevant provisions come into operation, and it will consult members of the public before issuing a code of practice with which third party funders are expected to comply.

As regards the publication of CIETAC's International Investment Arbitration Rules, we likewise very much agree to the wisdom displayed by this move.

In recent years, investment arbitration becomes a very hot topic in the international arbitration arena. As a matter of fact, there has been a significant growth in the number of investment arbitrations. According to the International Centre for Settlement of Investment Disputes ("ICSID"), as of October 2017, there are about 236 pending cases, which are nearly twice

as many as the total number of cases in 2009. There is of course also an undisclosed number of investment arbitrations conducted outside the framework of ICSID. Indeed, as more and more Chinese enterprises begin to “go global”, coupled with the Belt and Road Initiative that I will deal with in a moment, experts and commentators in the relevant field believe that the growth in investment arbitration is likely to continue.

We therefore welcome the publication of CIETAC’s own International Investment Arbitration Rules, and we are glad that the Rules are also applicable to the CIETAC Hong Kong Arbitration Center. Since the DoJ is also very much interested in the promotion of investor-state arbitration, I am sure there will be plenty of room for co-operation in this regard.

When one talks about breakthrough, one can ill afford to omit the Belt and Road Initiative announced by President Xi in late 2013. While it has its historical and cultural heritage, the Belt and Road Initiative is so visionary that its impacts will surely surprise any breakthrough in modern times.

For the present purpose, allow me to say a few words about the Belt and Road Initiative. According to the Ministry of Commerce, in the first half of 2017, China’s investment continued

to see significant development. The total value of newly-signed contracted projects in economies along the Belt and Road route amounted to US\$78 billion, taking up about 58% of China's total value of overseas contracted projects during that period. Such huge investments demand a lot of professional support, including of course extensive legal support, ranging from legal advice on local laws, procedural rules and business practices of the destination countries to managing legal risks and resolving disputes.

In a questionnaire survey conducted by the Hong Kong Trade Development Council in mid-2016 in the South China region, it was revealed that about 50% of the respondent Mainland enterprises indicated that they would prefer to seek professional services in the HKSAR<sup>2</sup>. This increasing demand for sophisticated and cross-jurisdictional legal and dispute resolution services brings ample opportunities for our legal and dispute resolution professionals, and which demonstrates that CIEATC's decision to establish the Hong Kong Arbitration Centre is a right and commendable decision.

Hong Kong is well positioned to be the preferred neutral seat of arbitration to resolve disputes involving Mainland

---

<sup>2</sup> Hong Kong Trade Development Council (1 December 2016) *Chinese Enterprises Capturing Belt and Road Opportunities via Hong Kong: Findings of Surveys in South China*.

parties as well as parties from jurisdictions along the Belt and Road routes and beyond. We constantly update our arbitration legislation and enhance our dispute resolution infrastructure so as to cater for the ever changing needs of the international arbitration community. Over the past few days, I have been introducing the latest development in the HKSAR's arbitration landscape on different occasions. I do not think I need to repeat them here at this conference.

Instead, allow me to reiterate and stress one point, and the point is this. The economic development in the Asia-Pacific region and beyond is taking place at an unprecedented pace. The continued implementation of the Belt and Road Initiative and technological advancements (including those advancements relating to Big Data, the Internet of Things and Artificial Intelligence) will accelerate the speed of future development beyond imagination. The challenges facing us are definitely daunting, and perhaps continuous efforts to make breakthroughs is the one of the best ways to stay ahead of the rapid development that no one in the international community can avoid.

Speaking for the DoJ, may I sincerely express our wish to join force with the dispute resolution community and organizations, including of course CIETAC, to make



breakthroughs together in the years ahead. When I travelled overseas, many people asked me whether the HKSAR Government is worried about competition from other jurisdictions since more and more jurisdictions are interested to develop and promote their own arbitration services. My answer is that I see collaboration and co-operation, and that what is often described as “competition” is a form of manifestation that each of us are doing our very best to provide top quality services to the end-users of dispute resolution mechanisms, which is after all what we professionals are supposed to do.

On this note, it remains for me to wish this conference every success.

Thank you.