

Speech of Ms Teresa Cheng, SC
Secretary for Justice
Hong Kong Maritime Week 2018: Mock Arbitrations
23 November 2018 (Friday)

Distinguished Guests, Ladies and Gentlemen,

It is my great honour and pleasure to be here today. In particular, as Mary pointed out, this is the first time we have mock arbitration on maritime dispute organised by local bodies to demonstrate and spread the word of maritime arbitration loudly and strongly. To start with, let me share with you some information on seaborne trade of Hong Kong.

Latest Development in Seaborne Trade of Hong Kong

2. According to the 2018 edition of the United Nations Conference on Trade and Development (UNCTAD) *Review of Maritime Transport*, which was launched during the Global Maritime Forum's Annual Summit which took place in Hong Kong on 3-4 October 2018, seaborne trade expanded by a healthy 4% in 2017, the fastest growth in five years, while UNCTAD forecasts similar growth this year.

3. *The Review of Maritime Transport 2018* also states that, as at 1 January 2018, Hong Kong is the fifth leading flag of registration by value of principal vessel type, behind Panama, Marshall Islands, Bahamas and Liberia. Hong Kong is the fourth leading flag of registration by dead-weight tonnage, behind Panama, Marshall Islands and Liberia.

4. In terms of dead-weight tonnage, Hong Kong is the number 1 leading flag of registration outside the Mainland for merchant fleets with Mainland beneficial ownership.

5. Maritime enterprises of the Mainland and Hong Kong are closely related to each other.

6. According to the Xinhua-Baltic International Shipping Centre Development Index Report 2018 published in July this year, Hong Kong has, for the first time in the last 5 years, surpassed London as number two in the list of international shipping centres in the World. Shanghai has also been growing steadily over the years, occupying the fourth position in 2018.

The Greater Area Bay Development

7. China is the largest trading economy in the world with a flourishing import-export freight forwarding sector, and Guangdong province is the most important area in China for foreign trade. In 2017, the value of Guangdong's imports and exports rose 8% from the year before to RMB6.8 trillion, accounting for 24.5% of the nation's total.

8. In 2017, Guangdong's total container throughput grew by about 9% from the year before to over 62 million Twenty-foot Equivalent Units (TEUs), a level more than six times higher than that in 2000.

9. Hong Kong remains as an important goods transshipment port for Guangdong's foreign trade. In 2017, Hong Kong's container throughput grew 5% year-on-year to 20.77 million TEUs.

10. A number of new initiatives will be put in place in the Greater Bay Area. Given the close economic ties to be established in the Area, there will be great opportunities for businesses as well as maritime industry. If there are ideas which can enhance trade and provision of services of Hong Kong, we would be happy to look into it.

Hong Kong's Maritime Legal and Dispute Resolution Services

11. Hong Kong prides itself as the leading financial centre, but also as a major shipping centre. Hong Kong provides a myriad of maritime services, with legal services being an indispensable part of it.

12. Hong Kong's position as an international maritime centre as well as a hub for international legal and dispute resolution services in the Asia-Pacific region can be illustrated by the fact that the city was chosen as the host for the International Congress of Maritime Arbitrators twice, first in 1994 and was able to step in and host the event successfully with short notice in 2015.

13. The maritime sector in Hong Kong is a major pillar of Hong Kong's trading and logistics industry, with more than 90% of freight volume to and from Hong Kong still transported by water at present. We have our advantages, which include a long-established maritime tradition, our geographical location, and the clustering of shipowners, shipping companies and maritime services sectors.

14. Our legal and arbitration sectors comprise professionals

from the industry who know the trade. They cover a variety of nationalities and diverse experience of legal training from various jurisdictions. Many of them are not only bilingual in both Chinese and English, but are conversant in both Western cultures as well as contemporary Mainland affairs.

15. This is particularly important as Hong Kong is the first choice for Chinese shipping companies after Mainland cities. A considerable number of professionals provide high-end legal and dispute resolution services to shipowners, charterers and cargo owners in ship financing, shipbuilding, marine insurance and other services.

16. Maritime cases tend to use English law as the substantive law. Under “one country, two systems”, Hong Kong practices common law which is based on English law. Hong Kong law can be a very good alternative as the substantive law governing maritime contracts that you may be dealing with, or the choice of law clause that you may be writing.

17. Lawyers in Hong Kong with common law background are able to provide very good services in the context of English law as well given the common traditions. The added advantage of Hong Kong Law is that it is bilingual. Some judgments are in Chinese and the legislation is in both languages. This bilingualism enhances easy access to the law both for Chinese and English speaking business.

18. Another important feature in maritime disputes is that hearings are not always required. They are often documentary

arbitration with requirement for awards to be made in 24 hours. Yet, some cases may involve hearings. I note that today's mock cases will cover interesting topics such as jurisdictional challenge, injunction and substantive arguments. The mock cases will no doubt demonstrate how these types of cases can be efficiently and effectively disposed of notwithstanding the need for oral hearings.

19. Given the need of simple and easy system for resolving maritime cases, LawTech comes into play. The Department of Justice (DoJ) encourages the development of online dispute resolution, and gives policy support to the development of an e-arbitration and e-mediation platform by non-governmental organisation, so that Hong Kong will be able to provide efficient and cost-effective online dispute resolution services.

20. This is of particular relevance to maritime arbitration since the amounts in dispute are not always in huge amount and relatively small, therefore cost-effectiveness becomes extremely important. Further, some may need speedy resolution which can be facilitated by use of technology.

21. We also give policy support to the development of a smart contract platform for use by enterprises of various countries exploiting developments in LawTech to facilitate transactions and resolve disputes.

22. Having touched on what the Hong Kong Government is supporting, let me also say a few words of the organisers of this meaningful event. China Maritime Arbitration Commission is a body active in promoting maritime arbitration in Hong Kong which

has special rules for that. There are also some other bodies which are working towards it such as the Hong Kong International Arbitration Centre, the non-governmental organization which develops the e-arbitration and e-mediation platform and others in the sector.

23. It is worth noting that the Hong Kong Maritime Arbitration Group, a group of sector specific experts putting together their professional services that will bring new dimension to maritime arbitration in Hong Kong, is amending their rules to suit the needs of the users as well as reviewing mechanism to enhance the appointment of arbitrator. These are important aspects by which the maritime arbitration industry will be able to serve the users.

24. Capacity building is also very important in Hong Kong. The Hong Kong Institute of Arbitrators, Hong Kong Maritime Law Association and Chartered Institute of Arbitrators have taken up important roles in training maritime lawyers and arbitrators. DoJ looks forward to working further with our partners to enhance and strengthen Hong Kong's role in maritime arbitration. With the strength and inclusiveness of the bodies in Hong Kong, we are confident that Hong Kong maritime arbitration will take an even firmer hold in Asia, and serve the industry even better.

25. I wish the event great success and I hope you will enjoy the three mock arbitrations later today.

Thank you.