

**For discussion on
27 May 2024**

**Legislative Council Panel on
Administration of Justice and Legal Services**

Development of Sports Dispute Resolution in Hong Kong

Purpose

This paper briefs the Panel on the potential of developing sports-related dispute resolution in Hong Kong and seeks members' view on the way forward.

Background

2. The Hong Kong SAR Government is committed to supporting sports development in Hong Kong as evidenced by our athletes consistently achieving great results in major sports events. With its proximity to Mainland China, ASEAN and the wider Asia region, alongside its unique strengths, Hong Kong no doubt has a solid foundation to establish itself as a regional, or even an international, sports jurisdiction. As the world recovers from the COVID-19 pandemic and major sports events start to return including the Paris Olympics 2024 and the National Games of the People's Republic of China next year, Hong Kong has remarkable potential to cultivate a vibrant sports culture.

3. Under the National 14th Five-Year Plan and the Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area, the Central People's Government has strategically positioned Hong Kong as a centre for international legal and dispute resolution services in the Asia-Pacific region. As the global sports market continues to grow rapidly, there is an increasing demand for dispute resolution services dedicated to resolving a wide range of sports-related disputes, including competition-related disputes, disciplinary matters, contractual disputes, and governance matters. There is impetus to establish an effective sports dispute resolution mechanism to cater the needs of various stakeholders, such as athletes, sports bodies, federations, event sponsors and the like.

4. Having an efficient and robust mechanism for resolving sports-related disputes is essential to the advancement of sports development in Hong Kong where delay in handling of conflict may have a drastic impact on the athlete's career. The development of sports-related dispute resolution would also reinforce Hong Kong's status as a centre for international legal and dispute resolution services in the Asia-Pacific region.

5. Globally, there are various sports dispute resolution mechanisms with established rules and dedicated offices set up. In Hong Kong, there is at present no one single recognised structured mechanism dedicated to resolving sports-related disputes.

International and regional developments of sports dispute resolution

6. The Court of Arbitration for Sport ("CAS"), established in 1984 and headquartered in Switzerland, is recognised as the leading international body for sports dispute resolution. It comprises the Ordinary Arbitration Division, the Anti-doping Division, the Appeals Arbitration Division, as well as the Ad Hoc Division (which is active during specific international and regional sports events and renders adjudications on sports disputes). CAS also offers mediation services as governed by its Mediation Rules. There are two permanent decentralised offices respectively in Sydney and New York and four alternative hearing centres respectively in Abu Dhabi, Cairo, Kuala Lumpur and Shanghai. The seat of arbitration of all CAS procedures is Lausanne, Switzerland, regardless of the venue of hearing. As at 9 May 2024, there are 464 listed arbitrators and 52 listed mediators.

7. In recent years, there have been notable developments in sports dispute resolution, particularly in Asia. In Malaysia, the Asian International Arbitration Centre ("AIAC"), which was established under the auspices of the Asian-African Legal Consultative Organisation as a not-for-profit, non-governmental and international organisation, has implemented various initiatives to promote the use of arbitration in resolving sports-related disputes. AIAC is appointed as one of the official CAS alternative hearing centres to host hearings on CAS cases. To strengthen capacity building, AIAC organised a Certificate Programme in Sports Arbitration as well as a Sports Week in previous years. In October

2023, AIAC launched the first edition of the Asian Sports Arbitration Rules which were designed for resolving sports-related disputes and addressing specific nuances and challenges that often arise in the sports sector.¹

8. In Thailand, the Thailand Arbitration Center together with the Sports Authority of Thailand launched the first dispute resolution centre dedicated to sports in Thailand in October 2022, namely the Thailand Center of Arbitration for Sport to support alternative disputes resolution process by mediation and arbitration.²

9. In Japan, the Japan Sports Arbitration Agency (“JSAA”) was founded in 2003 as a specialised dispute resolution body that administers arbitration and mediation for local sports-related disputes, with the support of the Japanese Olympic Committee, Japan Sport Association and Japanese Para-Sports Associations.³ JSAA has encouraged sports associations to adopt an automatic arbitration acceptance clause to the effect that the parties will refer any sports disputes to arbitration. As of 1 April 2024, 143 out of 173 sports associations in Japan have adopted such clause and the adoption rate is 82.7%.⁴

10. In Mainland China, the latest revised Law of the People’s Republic of China on Physical Culture and Sports (“revised Sports Law”) came into force in January 2023, introducing a new chapter on sports arbitration and providing for a more comprehensive sports arbitration system.⁵ In February 2023, the China Commission of Arbitration for Sport (“CCAS”) was established by the State General Administration of Sports pursuant to the revised Sports Law. As a specialised sports dispute

¹ See <https://www.aiac.world/news/375/Press-Statement:-The-Asian-Sport-Arbitration-Rules>

² See <https://thac.or.th/dispute-resolution-center-sports-arbitration-comes-to-thailand-with-tcas>

³ See <https://www.lawinsport.com/topics/item/the-current-state-and-future-challenges-of-the-japan-sports-arbitration-agency>

⁴ See <https://www.jsaa.jp/doc/arbitrationclause.html>

⁵ See Chapter 9 of the revised Sports Law: <https://www.sport.gov.cn/n10503/c24405484/content.html>

resolution body in Mainland China, CCAS has jurisdiction to handle sports disputes on matters related to selection, eligibility, disciplinary, athlete registration and exchange and those arising from sports competitions.⁶ CCAS has published a set of sports arbitration rules and has started administering sports arbitration cases with a dedicated online platform.

11. Apart from Asia, other countries worldwide have also established sports dispute resolution bodies, such as the Sport Dispute Resolution Centre of Canada, Sport Resolutions UK, the National Sports Tribunal in Australia and the Sports Tribunal of New Zealand.

Current position on sports dispute resolution in Hong Kong

12. In Hong Kong, disputes and grievances do arise in the sporting context, but there is currently no uniform dispute resolution mechanism within the sports sector. Local sports associations have been adopting different means to resolve disputes, with most disputes resolved by way of internal procedures. Only a small number of local sports associations have incorporated an arbitration or mediation clause in their constitutions or internal rules.

13. It is generally observed that there is a limited uptake of alternative dispute resolution for sports-related disputes in Hong Kong. This may be attributed to: (i) the absence of dispute resolution clauses in the relevant constitutions, rules and agreements; (ii) a lack of resources of sports associations; (iii) a preference for internal mechanisms; and (iv) a lack of awareness on the benefits and procedures on the use of alternative dispute resolution among potential users such as local sports associations and athletes.

14. Hong Kong exhibits unique strengths to provide sports dispute resolution services in support of the overall local sports development. We have a comprehensive legal framework and supportive judiciary to facilitate the conduct of arbitration and mediation in Hong Kong. The

⁶ See Article 3 of the CCAS Arbitration Rules: <https://www.sport.gov.cn/n315/n331/n405/c25040546/content.html>. CCAS does not handle other arbitrable disputes under the PRC's Arbitration Law or labour disputes under the PRC's Labour Dispute Mediation and Arbitration law.

three reciprocal arrangements in arbitration signed with Mainland⁷ provide unparalleled convenience to arbitration users in Hong Kong to resolve disputes with Mainland-related elements. There is also a strong pool of professionals experienced in sports dispute resolution matters. As of 9 May 2024, there are 99 arbitrators listed in Hong Kong International Arbitration Centre and 144 mediators on the panel of Hong Kong Mediation Accreditation Association Limited with expertise in sports.

Engagement with stakeholders

15. The Hong Kong SAR Government (the Department of Justice and the Culture, Sports and Tourism Bureau) has been actively engaging with key stakeholders⁸ to understand the needs of the local sports sector, with a view to enhancing the sports dispute resolution system in Hong Kong. There is a general consensus amongst the key stakeholders that using alternative dispute resolution mechanisms to resolve sports-related disputes has a number of benefits, including: (i) procedural flexibility and timely resolution of disputes, which is an important advantage given an athlete's short career trajectory and tight competition timetables; (ii) involvement of impartial and expert neutrals; and (iii) confidentiality of the dispute resolution process. In this respect, the availability of a centralised, independent and accessible sports dispute resolution mechanism would help preserve the integrity of sports and maintain a sustainable sporting environment in Hong Kong.

16. It is particularly noted that the local sports industry is keen to have a neutral, fair and efficient system for addressing and settling sports disputes. With the support of the key stakeholders, we will continue with

⁷ They are respectively the *Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR* signed in 1999; the *Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the HKSAR* signed in 2019 and the *Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR* signed in 2020.

⁸ Stakeholders engaged include: The Hong Kong Bar Association, The Law Society of Hong Kong and the Sports Federation and Olympic Committee of Hong Kong, China

the discussion and explore the possible options for establishing a sports dispute resolution mechanism in Hong Kong.

Conclusion

17. Looking ahead, the HKSAR Government will continue to work with the stakeholders to enhance the local sports dispute resolution landscape, which would be conducive to the local professional sports development and the promotion of Hong Kong as a sports hub.

18. We invite Members' comments on the development of sports dispute resolution in Hong Kong.

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