



18 April 2016

Legislative Council  
Hong Kong  
Ref: CB4/PL/AJLS  
Attn: Ms Mary So, Clerk to Panel  
By email: [panel\\_ajls@legco.gov.hk](mailto:panel_ajls@legco.gov.hk)

Dear Ms So

**Re: Panel on Administration of Justice and Legal Services, Meeting on 25 April 2016**

We are grateful for the opportunity to provide submissions on the “Renovation works for the West Wing of the former Central Government Offices for office use by the Department of Justice and law-related organisations” under agenda item IV of the meeting of the Panel on Administration of Justice and Legal Services.

HKIAC’s goal of strengthening Hong Kong’s role as an international legal services centre is well aligned with the Government’s policy objective. Over the years, we have worked side by side with the Department of Justice to enhance Hong Kong as an arbitration hub. This has resulted in the recent recognition by the 2015 International Arbitration Survey conducted by Queen Mary University of London (QMUL) in partnership with White & Case (“Queen Mary Survey”) which found Hong Kong to be the most preferred seat in Asia and third most preferred seat in the world. HKIAC also featured prominently this survey, which designated HKIAC as the most preferred institution in Asia and the third most preferred institution in the world. Such recognition inevitably brings users confidence when choosing Hong Kong as a place to seat their arbitrations and HKIAC as their institution of choice. In turn, we anticipate increased demand for legal professionals as well as professionals who support arbitration activity in Hong Kong.

In addition, HKIAC’s renovation of its current premises at the 38<sup>th</sup> floor of Two Exchange Floor (“Current Premises”) in 2011 also produced accolades from users of hearing centres. The Global Arbitration Review published a table in 2014 which reviewed HKIAC’s premises prior to its 2011 renovation and ranked HKIAC at 6.5% for number of times HKIAC’s hearing facilities were “recommended to a friend.” When the table was reproduced again in 2015, the ranking reflected the number of times HKIAC’s *newly renovated* premises were recommended by a friend. This time, we came in fourth place at 25%. This significant increase reflects the nature and frequency of positive feedback we have received in relation to our upgraded facilities.



The most recent hearing centre survey by the Global Arbitration Review (which was released as part of its Guide to Regional Arbitration 2016) named HKIAC as having the most highly nominated hearing facilities in most of the categories, including location, perceived value for money, IT services and helpfulness of staff. (See Annex C) Users also ranked location as the single most important feature that a hearing centre should possess. What these results suggest is that HKIAC's current premises is the complete package for users of arbitration. The impact of such survey cannot be underestimated. HKIAC has seen more interest in its facilities since and we hope this will bring more business to Hong Kong in the future.

It is in this context that we highlight three primary concerns we have raised in the past to the Department of Justice ("DOJ") in relation to the renovation works for the West Wing of the former Central Offices. (See Annex A) These concerns all relate to the financial implications of a move from the Current Premises to the FMB and West Wing.

(1) The financial sustainability of HKIAC depends on the availability of professional and state of the art hearing facilities that can be rented out for hearings and conferences;

The total useable area and hearing room sizes for the FMB and West Wing allocated to HKIAC is less than the current space available to HKIAC on the 38<sup>th</sup> floor of Two Exchange Square. Not only is there less useable area, but the area that has been allocated cannot fit large hearing rooms. Arbitrations often require large unobstructed rooms (and associated break out rooms). In our current space, we have three large hearing rooms and these rooms are most in demand by arbitration users. Having conducted comparison studies, such rooms cannot be replicated in the hearing space allocated. That is, neither the FMB nor the West Wing can accommodate the three large hearing rooms which are most in demand in our Current Space.

Having set out the fact that a move to FMB and West Wing will inevitably reduce the availability of sought-after large room hearing facilities, we are further concerned that no confirmation has been made by the Department of Justice to HKIAC that we will receive the revenue generated by the rental of the hearing facilities at the West Wing. (See Annex D) We understand that we are to be managing the hearing centre at West Wing. However, we have no certainty as to whether or not we will receive rental income from the hearing facilities at the West Wing. Without such certainty and with the potential of losing more than fifty percent of our current revenue from room bookings, we may not be able to maintain our business operations. On this basis, the HKIAC Council has not been able to fully approve the move.

(2) The financial position of HKIAC is such that we cannot afford to pay for another massive renovation and fitting out;





As we have indicated to the Department of Justice, HKIAC cannot fund the renovation costs associated with renovating the West Wing, the section for which we are responsible. (See Annexes A and B) This has been acknowledged by the Department of Justice and we understand that how funds will be raised will require further discussion between HKIAC and Department of Justice. The uncertainty associated with the lack of funding brings great challenge to the operation of HKIAC. As a non-profit organisation which has served and promoted Hong Kong locally and internationally for over thirty-years, the large majority of our expenses and human resources go towards developing the business of HKIAC and Hong Kong arbitration and ensuring high quality arbitration and dispute resolution services to the users. We are not in the position to deploy our staff to raise funds of the magnitude that would be needed for the renovation. Nor are we in the position to pay for such a renovation without major government support.

(3) The recurrent expenses of HKIAC have to be maintained at the current level in any new premises for financial sustainability in the long term;

As detailed in Annex A, we are unable to assess the potential recurrent expenses associated with maintaining a heritage building. But we believe they will be significantly higher than the expenses incurred at our present location. Again, this uncertainty puts HKIAC in a difficult position to forecast its budget and make meaningful plans for its business operations.

We are keen to continue the dialogue as to how we can enhance the Government's policy of promoting Hong Kong as an international dispute resolution centre. As an integral part of Hong Kong's dispute resolution community that works tirelessly to promote Hong Kong, we hope that these concerns can be discussed. We are optimistic that an appropriate solution can be found and look forward to working with Government to achieve this.

Yours faithfully

Hong Kong International Arbitration Centre

Teresa Cheng GBS SC JP  
Chairperson of HKIAC

Encl.



香港國際仲裁中心  
Hong Kong International  
Arbitration Centre

Annex A

15 July 2014

Mr. Rimsky YUEN, SC, JP  
Secretary for Justice  
Department of Justice  
4th floor, High Block,  
Queensway Government Offices,  
66 Queensway,  
Hong Kong

Dear Rimsky,

Re: **French Mission Building**

I refer to your letter dated 22 April 2014 and our meeting at DoJ on 10 June 2014.

We have had a Council meeting to discuss the kind offer for us to move to French Mission Building (“FMB”) which we have carefully considered.

First, we would like to express our appreciation and gratitude for your kind offer bearing in mind the prestige and importance of this heritage building. It is a most prestigious building with out-standing appeal and is an icon of Hong Kong’s rule of law having been the premises for the CFA since 1997. As you have stated, a move by HKIAC to be housed in the FMB will enhance our status as Hong Kong’s home-grown centre for international dispute resolution. It will also reinforce Hong Kong Government’s policy to create an internationally renowned legal hub housed at the FMB, West Wing and the Central Government Office.

However, we would like to share with you our concerns about the proposed move and would constructively make some suggestions for your consideration. The concerns can be described in three aspects – the lack of space for hearing rooms, the

financial outlay (one-off and recurring expenses caused by the move), and the financial sustainability of HKIAC.

### Background history of HKIAC

To better understand our concerns we would like to share with you some of the information about the history and development of HKIAC. In 1985, HKIAC received a sum of \$19m as seed money and was given the premises at former police station at Arbuthnot Road. It was an old yet prestigious building but users had to climb stairs to access the building and some arbitrators expressed that the physical layout and accessibility of the premises became a disincentive for them to come to arbitrate in Hong Kong.

In 1995 we were given half a floor of Exchange Square and that has been a great boost for HKIAC. In 2012 we were given the full floor of 38 Exchange Square. We have incurred huge expenses for fitting it out as one of the best hearing centres catering for the needs of the users. We still have a debt as a result of the fitting out works.

Exchange Square has served the domestic and international users well, not least because of it being in core central within covered walkways network, but also that it is close to the Hong Kong Station for the Airport Express.

Our finances have always been based on income from renting out facilities for arbitrations, mainly ad hoc prior to 2008. In 2008, we introduced the Administered Arbitration Rules and generated another source of income from administration fees.

Council members, both past and present, have unselfishly given up their time and even their office resources to ensure the smooth running of HKIAC so as to promote Hong Kong as an international dispute resolution centre. The Secretariat have worked long hours and with immense devotion to make Hong Kong and HKIAC continue to thrive notwithstanding the many challenges and competition that we are facing in

light of the strong policy and financial support given by other governments for their home-grown arbitration centres in the region.

### Our Concerns

From the above, the following can be discerned:

1. The financial sustainability of HKIAC depends on the availability of professional and state of the art hearing facilities that can be rented out for hearing and conferences etc.
2. The financial position of HKIAC is such that we cannot afford to pay for another massive renovation and fitting out.
3. The recurrent expenses of HKIAC have to be maintained at the current level in any new premises for financial sustainability in the long term.

We would also add that the importance of providing good hearing facilities is not just to generate rental income for HKIAC but to let users be aware that by choosing Hong Kong or HKIAC they will have professional and state of the art hearing facilities and support. Our Secretariat has vast experience in managing the hearing facilities and has received repeated praise and appreciation from users who have arbitrated at HKIAC. Without such hearing facilities in Hong Kong, parties may have to go to hotels and it will not be long before they change the seat to someplace else, such as Singapore or Kuala Lumpur. Should that be the case, it is not just HKIAC that will suffer but the very status of Hong Kong as an eminent international arbitration centre will erode.

With that background, you will appreciate that our concerns of the move is the financial position of HKIAC and the availability of hearing rooms, not just from HKIAC perspective but also for Hong Kong as a whole.

## Hearing facilities

Our users uniformly rate convenience as the number one advantage for using HKIAC as a hearing facility over other hearing facilities in Hong Kong and regionally. It is often described as the proximity of the Airport Express for the out-of-town users. This advantage will be lost once we move to FMB unless we embark on an international promotional activity and re-branding strategy of such a move. This will cost time and money and has some inherent uncertainty as a result of the expressed views of the ease of convenience Exchange Square now has for out-of-town users.

But more importantly, the FMB will not be able to house the three most used hearing rooms currently at HKIAC. The FMB layout has been studied realistically with imposition of furniture layout and there is no way in which the three largest hearing rooms Sai Kung, Kowloon and Lantau can be fitted in. These three rooms and the associated breakout rooms account for the main use of the hearing facilities in 2013. The lack of these three hearing rooms will mean that the income will be substantially lost and HKIAC will not be sustainable.

It is absolutely essential for these rooms to be available for hearing if Hong Kong is to remain as a centre for dispute resolution.

As a result, we have to ask that enough spaces be provided to HKIAC at the West Wing to serve as part of the hearing facilities in particular to house the three large hearing rooms with breakout rooms. Without such hearing facilities HKIAC will not be able to sustain its existence let alone growth.

We would like to be party to the furtherance of the policy of the Government of promoting Hong Kong as an international dispute resolution centre and whilst our staff resources are tight, we would be happy to discuss with you the possibility of providing management services for a larger hearing centre to be housed at the West Wing beyond what is absolutely necessary for the HKIAC as stated above.

### One-off costs to be incurred by the move

On the financial outlay of the move, we would like to highlight the following:

1. The costs of moving, fitting out and other one-off expenses relating to the move is huge and as alluded to above, our financial position is such that we cannot afford it. Items that are inevitable if a move to FMB is to take place would include at least the following:
  - a. Demotion costs of fitting out at Exchange Square estimated at HKD7 million (unless this can be waived)
  - b. Renovation costs including the installation of video and telephoning facilities etc estimated at HKD35-55 million (just for FMB)
  - c. Moving costs
  - d. Business interruption and marketing costs
  - e. Relocation advisory consultancy costs
2. Whilst the Government will carry out the fitting out work, we ask that we be included as part of the team so that the premises, in particular the hearing rooms to be housed in FMB, will not be a downgrade from what they are now. There will be a perception to the outside world that Hong Kong is no longer serious about developing its dispute resolution services should the professional standard of the hearing facilities drop notwithstanding we would be housed in a most prestigious building. Users look for functionality and not just appearance.
3. The fitting out of the West Wing for the essential hearing facilities must be such that they similarly maintain the current, if not better, standards. Staff seating and office facilities such as photocopying will also have to be provided. Correlation with the FMB insofar as telephoning and IT systems are concerned will also mean additional extra costs.



Unless there are ways in which the initial financial outlay is funded, HKIAC simply cannot pay for such a move. It has yet to re-pay the last renovation costs.

### Recurring costs

We do not have information about the recurrent costs of the FMB.

We understand that the maintenance of the FMB, as a heritage building, and other maintenance costs will be borne by the Government, which we greatly appreciate.

However to ensure financial sustainability we need to know whether our projected income is able to meet those expenses which we believe will be much higher than at the Exchange Square.

Unless there is a way in which these additional recurrent expenses can be met, moving to FMB will mean that HKIAC and hence Hong Kong's position will be adversely affected.

### Proposals for consideration

The Government should be assured that HKIAC wants to help enhance the policy to develop Hong Kong as an eminent international dispute resolution centre. We strive therefore to consider ways in which this can be achieved and would like to suggest the following ideas for your consideration so that the matter can be dealt with in the interests of Hong Kong and HKIAC, the icon for Hong Kong international dispute resolution services.

On balance, and for the reasons set out above, the most financially prudent option may be to stay at the current premises and the status quo be maintained. First, the excellent location and the hearing room facilities have drawn users to HKIAC time and time again. To uproot HKIAC from its current premises may bring about

consequences not yet contemplated which would be dependent on the views of the out-of-town users. Secondly, the costs of the move (both the one-off and the recurrent expenses) are considerable and impossible for HKIAC to bear under its current financial structure and state.

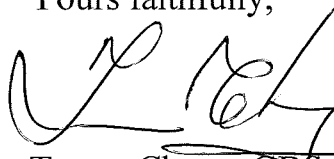
If a move to FMB is desirable for the benefit of Hong Kong as a whole, and cannot be avoided, we respectfully ask for the following to be considered:

1. The term of the lease for HKIAC to remain at the FMB and the West Wing additional hearing facilities shall be up to 2047, and beyond if possible.
2. HKIAC to have exclusive use of the FMB and the additional hearing facilities at the West Wing.
3. If a larger hearing facility (beyond what is essential to HKIAC) is to be provided at the West Wing, HKIAC is willing to provide management services for that so as to benefit the general public as well as users of HKIAC.
4. The one-off costs of the move be funded by the Government. The exact amount or arrangement will of course have to be discussed.
5. Subsidy be provided for the additional recurrent costs, if any. The terms, amount and the length of the subsidy period will have to be discussed.

We sincerely hope that you will understand that, in the event that the move is unavoidable, our requests above are not made to obstruct the plan but to help to ensure that it can be done in appropriate manners for the good of HKIAC and hence Hong Kong. It is a result of the current financial position of HKIAC and the way it has operated in the past 29 years in serving and promoting Hong Kong internationally. It is out of need that we have to make these requests so as to not just comply with but importantly to enhance the Government's policy of promoting Hong Kong as an international dispute resolution centre. It is not for the sole benefit of HKIAC, Hong Kong's icon on dispute resolution, but for Hong Kong and the arbitration community as a whole.

We sincerely thank you for the continued and frank dialogue on this issue. We look forward to working with you to achieve an appropriate way forward for the benefit of Hong Kong and HKIAC.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Teresa Cheng', written over a horizontal line.

Teresa Cheng, GBS, SC, JP  
Chairman of HKIAC

Encl.

Hong Kong International Arbitration Centre  
Detailed Income and Expenditure Statement

	Actual Jan - Dec 2009 HK\$	Actual Jan - Dec 2010 HK\$	Actual Jan - Dec 2011 HK\$	Actual Jan - Dec 2012 HK\$	Actual Jan - Dec 2013 HK\$
<b>Income</b>					
<b>Hearing Centre Income (Sub Total)</b>	4,615,848.27	5,981,050.26	5,172,482.19	6,585,384.38	7,983,277.58
Room hire	4,154,003.45	5,457,780.00	4,667,113.89	5,974,326.82	7,580,793.13
Services rendered	461,844.82	523,270.26	505,368.30	611,057.56	402,484.45
<b>ADR Services Income (Sub Total)</b>	6,135,418.56	5,457,245.57	7,801,763.55	9,510,214.23	10,529,747.11
Administered arbitration income	1,137,711.36	1,060,983.96	2,309,852.05	4,272,361.39	6,052,993.71
Appointment Fee Income	550,108.61	605,275.81	352,178.53	539,354.72	500,261.57
Domain Name income	771,652.74	520,084.78	1,126,940.65	997,850.62	1,717,391.83
Mediation & Arbitration Schemes	1,679,842.00	984,071.97	1,223,641.00	190,000.00	50,000.00
Panel Fee Income	389,165.25	591,540.05	603,631.32	744,147.50	993,500.00
Stage 2 Assessment	1,606,938.60	1,695,289.00	2,185,520.00	2,766,500.00	1,215,600.00
<b>Business Development Income (Sub Total)</b>	1,674,135.19	2,835,759.41	1,713,536.32	4,313,526.91	2,550,397.86
ADR Journal	422,302.73	358,266.58	465,508.69	430,671.39	431,700.64
ADR in Asia Conference	684,820.50	1,881,430.10	814,636.25	1,923,926.72	1,788,157.30
Conference / Seminars	412,023.46	459,795.23	265,892.38	1,772,101.80	225,749.73
HKIAC Users' Council	154,988.50	136,267.50	167,499.00	186,827.00	104,790.19
<b>Others Income (Sub Total)</b>	996,091.23	1,706,215.48	865,368.69	1,141,540.15	2,275,020.97
Administration income	884,900.00	909,060.00	726,440.00	963,200.00	1,040,776.78
HKMAAL Secretariat Income	0.00	0.00	0.00	0.00	986,362.00
Interest income	50.59	105.71	177.00	159.18	84.32
Sundry income	111,140.64	187,228.46	138,751.69	178,180.97	247,797.87
<b>Total Income</b>	13,421,493.25	15,980,270.72	15,553,150.75	21,550,665.67	23,338,443.52
<b>Expenditure</b>					
<b>ADR Services Expenditure (Sub Total)</b>	3,302,814.45	2,896,958.67	3,264,737.47	2,636,713.12	2,097,307.34
Domain Name expenses	638,157.21	284,989.94	691,923.40	542,583.97	1,158,736.28
Mediation & Arbitration Schemes	1,389,772.16	645,140.76	726,813.07	164,579.30	100,299.49
PSDAS Project	0.00	327,857.48	0.00	-	-
ICT Project	0.00	330,736.50	0.00	-	-
Stage 2 Assessment	1,274,885.08	1,308,233.99	1,846,001.00	1,929,549.85	838,271.57
<b>Business Development Expenditure (Sub Total)</b>	1,648,160.89	4,490,617.31	2,529,171.53	4,096,222.33	3,706,021.00
ADR Journal expenses	560,171.84	592,344.11	586,159.82	495,988.71	594,314.49
ADR in Asia Conference	356,213.01	3,158,523.02	837,609.40	1,308,754.80	1,285,261.15
Conference / Seminars	480,645.95	223,724.04	230,827.48	1,181,151.99	211,350.22
Entertainment	19,440.70	62,220.40	99,567.90	58,936.96	56,479.25
HKIAC Users' Council	20,310.10	7,300.00	5,000.00	-	1,000.00
Overseas travelling / Overseas Event registration Fee	211,379.29	420,248.24	614,330.52	754,427.97	1,267,188.62
Sponsorship / Local event registration fee	0.00	26,257.50	155,676.41	296,961.90	290,427.27
Seoul Office	0.00	0.00	0.00	0.00	0.00
<b>Others Expenditure (Sub Total)</b>	7,198,189.11	7,496,293.17	8,198,908.82	10,925,734.95	13,880,656.44
Accountancy fee	54,000.00	56,700.00	60,000.00	63,600.00	10,900.00
Audit fee	28,500.00	42,500.00	45,900.00	45,900.00	49,117.00
Bank Loan Interest - Coutts' Loan (note 1)	0.00	0.00	0.00	24,491.07	64,398.99
Building management fee	439,416.00	459,000.00	441,492.00	750,375.06	854,268.00
Cleaning expenses	86,120.00	99,071.00	86,594.00	109,680.00	145,720.00
Electricity	85,620.00	87,189.00	85,369.00	90,039.00	84,890.00
Insurance	202,448.01	219,746.21	209,891.21	207,858.78	221,407.19
MPF Contribution Expenses	119,520.34	122,709.15	119,235.35	142,314.88	220,913.20
Office supplies	42,406.60	37,659.94	14,838.60	19,590.00	11,161.16
Postage, printing and stationery	193,318.77	251,147.95	697,525.98	754,240.76	404,830.62
Rates	447,550.00	407,400.00	404,850.00	562,500.00	593,000.00
Repairs and maintenance	95,135.03	110,334.14	135,961.71	79,475.84	385,128.65
Staff Costs	4,822,776.05	5,030,140.35	4,809,881.25	6,469,266.00	8,935,721.67
Staff Costs-Bonus	82,559.05	100,000.00	558,400.00	822,000.00	1,092,401.00
Long Services Payment	0.00	0.00	0.00	144,818.00	-
Subscription & Magazines	176,952.53	218,769.04	229,018.55	205,548.86	122,435.04
Sundries	157,352.60	52,864.08	86,192.99	140,080.98	340,487.80
Telephone, facsimile & internet chgs	164,514.13	201,062.31	213,758.18	293,955.72	343,876.12
<b>Total Expenditure</b>	12,149,164.45	14,883,869.15	13,992,817.82	17,658,670.40	19,683,984.78
<b>Surplus/(Deficit) from operations</b>	1,272,328.80	1,096,401.57	1,560,332.93	3,891,995.27	3,654,458.74
Depreciation	693,283.21	722,116.35	823,620.08	1,560,315.91	3,630,955.05
Fixed Assets Written Off	0.00	0.00	0.00	745,060.20	0.00
<b>Net Surplus/(Deficit) from operations</b>	579,045.59	374,285.22	736,712.85	1,586,619.16	23,503.69



30 March 2015

Mr Rimsky Yuen SC  
Secretary for Justice  
Department of Justice  
4/F High Block Queensway Government Offices  
66 Queensway  
Hong Kong  
*By email & post*

Dear 

Re: **Premises**

In our letter of 15 July 2014, HKIAC highlighted the benefits of the hearing facilities at Exchange Square and the concerns, cost implications and other difficulties regarding a move to the FMB and proposed ways forward.

Your letter of 2 March 2015 has helpfully identified the efforts that both you and your colleagues have made to look for suitable alternative premises for HKIAC, to implement the government policy regarding the legal hub and to enable a decision to be made by the Council of HKIAC regarding the move. We are grateful to you for that. The information available to date, has afforded the Council more details by which to consider the matter. It is on that basis, that we feel duty-bound in the interests of Hong Kong to make the following three points.

#### Exchange Square

First, as agreed in May 2011 between your predecessor and mine, HKIAC has been provided accommodation at the 38/F Two Exchange Square for 6 years. It was also agreed that thereafter, alternative **suitable** accommodation in Central would be made available for HKIAC in the longer term.

In this context it is pertinent to note the expected standard for hearing facilities that has been detailed in a recent Global Arbitration Review (GAR) survey on hearing facilities. In this survey respondents ranked qualities that they considered most important in creating a conducive environment for an arbitral hearing.<sup>1</sup> Of the twenty-three qualities listed, the most

---

<sup>1</sup> See Annex A.

important quality was big enough rooms. Other qualities considered important include location in the city, amenities in the surrounding neighbourhood and natural light. This survey reflects the international standard for “suitable” accommodation. The current hearing facilities at Exchange Square are designated the fourth most popular hearing facilities in the world according to the GAR survey. It is also worth mentioning that the Permanent Court of Arbitration has referred to its experience at the current premises in determining suitability of Hong Kong as a venue to hold its investment arbitration hearings.

This study provides reliable, objective and real indicators by which one may ascertain the suitability of hearing facilities from the users’ perspectives.

It is with that in mind that HKIAC’s primary position has always been that it should remain at Exchange Square, not for the benefit of the Council members or the staff but to maintain the standing of the Centre in the eyes of the users and the arbitration community at large, both locally and from abroad. Unfortunately, for reasons beyond our control, it appears that this is not a viable option. If that is the case, we must aspire to replace the existing facilities with facilities of at least a comparable standard.

In our meeting with the Chief Executive in 2014, we suggested an alternative, and that is HKIAC will move to FMB with a floor at the CGO West Wing whilst the hearing facilities at Two Exchange Square be maintained for use by major international disputes such as that from the PCA or ICSID to be held in Hong Kong. This allows a more up-market hearing facility to be available to host major international arbitrations. Importantly, this echoed the views we have gathered from the arbitration community at large and we felt that might be able to allow the government’s policy on the legal hub, and the views of the arbitration community be addressed. We believe that by the letter of 27 October 2014 from the Solicitor General, this too was rejected.

Whilst we understand that HKIAC’s move to FMB and West Wing is probably unavoidable, we are obliged as a Council, represented by some of the top arbitration practitioners in the world who generously give their time to Hong Kong, to reiterate this alternative proposal and ask that this be given further thought.

### FMB and West Wing

As you know we will not be able to secure accommodation from our own resources, and whilst we regret the loss of Two Exchange Square, we are nonetheless grateful for your kind offer for HKIAC to be located at the FMB with a floor at the West Wing.



As already alluded to in our letter of 15 July 2014, we will not be able to fund the relocation, renovation and maintenance of the FMB as a heritage building. Moreover, given our financial situation we could never make up potential shortfall arising from such a move and fit-out. We have provided estimates and appreciate the opportunities of discussions with your colleagues on the costs concerned. Given the uncertainties of those costs, we consider that it would be more practical for us to provide government with our requirements and allow government to procure contractors to carry out the work so as to move this forward.

Consistent with the agreement in May 2011 to find alternative suitable accommodation, the gist of the requirements will be to provide hearing facilities compatible with that at Two Exchange Square now.

Accordingly, on the assumption that Two Exchange Square is no longer an option, HKIAC Council would ask the Government to confirm the following:

1. The term of the lease for HKIAC to remain at the FMB and the West Wing hearing facilities shall be up to 2047, and beyond if possible.
2. The relocation costs of and incidental to the move be funded by the Government.
3. The renovation / fit-out works be carried out by the Government to the same standard as that of 38/F Two Exchange Square. It is essential that our offering is on at least the same level as those of our competitors.
4. Government shall be responsible for the maintenance of the FMB and the West Wing floor so as to comply with the relevant requirements of heritage buildings.<sup>2</sup>
5. HKIAC shall continue to manage and use the FMB and West Wing floor as it currently does at Two Exchange Square.

In relation to the fitout, we would like to draw your attention to hearing centres in other Asian cities, such as Maxwell Chambers, Singapore, the KLRCA premises in Kuala Lumpur and the Seoul International Dispute Resolution Centre in Seoul. These facilities all offer visually impressive and technologically advanced hearing facilities.

Further, to enhance the image of Hong Kong's icon in dispute resolution, we wonder if the FMB can be named as "Hong Kong International Arbitration Centre".

---

<sup>2</sup> This has been confirmed by the DoJ orally.

We hope that you understand that our requests are necessary and it is only prudent that Council cannot provide with an unqualified agreement to the move given the nature of the organisation and our financial situation. We request you therefore to kindly confirm that the terms are agreeable to you and in particular that the finances involved will be taken up by the Government.

Additional Floor at West Wing

Lastly, looking towards 2047 and beyond, we will also need to consider the future needs of Hong Kong. As we expect the same if not a greater rate of growth in the next thirty-two years as we have seen in the last thirty years since the founding of HKIAC, additional space will likely be required. We hope to cater for this growth by requesting an additional floor of the CGO West Wing. This would be used for mediations and smaller disputes in Hong Kong but would also allow Hong Kong to manage the expected growth of international arbitration over the next few decades.

In conclusion, we thank you once again for your unreserved support. We understand that Two Exchange Square will not be available for HKIAC but urge the Government to consider keeping it as a hearing centre nonetheless.

Subject to the confirmation regarding finances and the terms set out above, HKIAC and its Council will devote their energies to making a move to FMB and the West Wing a success.

We hope to have the opportunity to meet with you again to discuss the foregoing. HKIAC's interests are firmly aligned with those of Government. Together we can find a way forward to ensure the future success of Hong Kong as a centre for dispute resolution.

Yours faithfully,



Teresa Cheng, GBS, SC, JP  
Chairperson of HKIAC

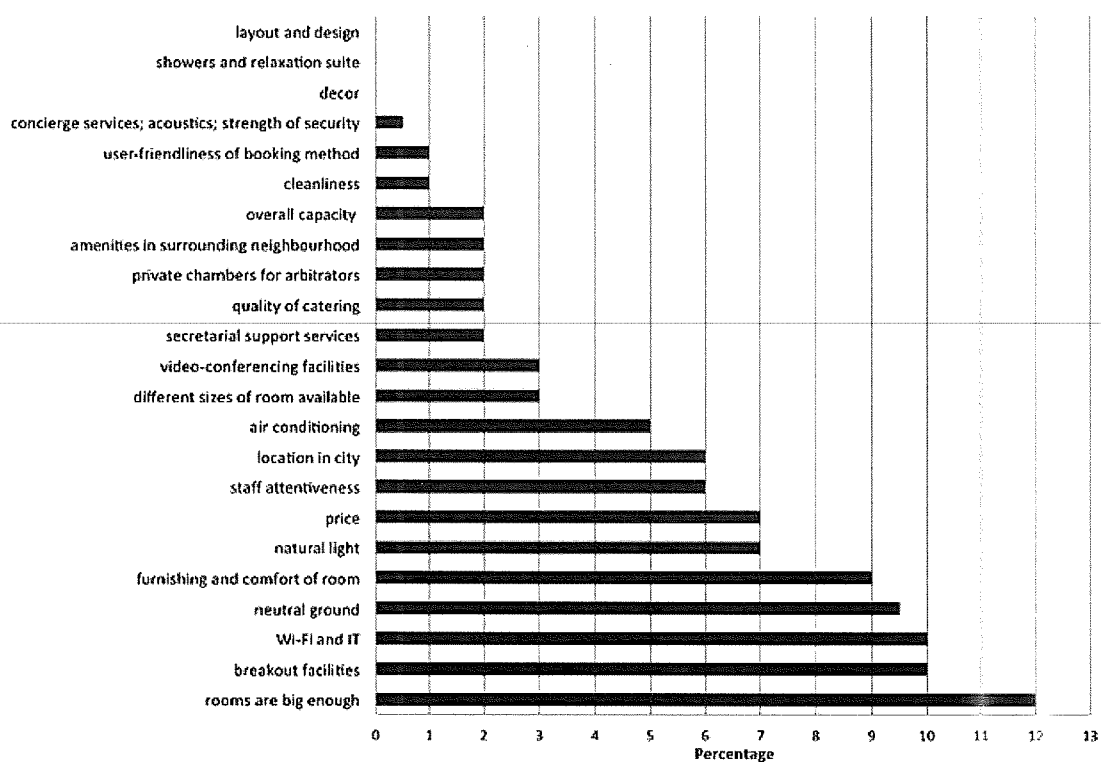
Encl.



### Annex A

## Global Arbitration Review – 2015 Hearing Facilities Survey

**Table B - qualities that are most helpful in creating a conducive environment for an arbitral hearing**



18 December 2015

The Hon Rimsy YUEN Kwok-keung, SC, JP  
Secretary for Justice  
5th floor, Main Wing, Justice Place,  
18 Lower Albert Road, Central,  
Hong Kong  
*By email sjo@doj.gov.hk & post*

Dear ,

Re: **HKIAC - GAR Survey on Hearing Premises**

The fourth annual Hong Kong Arbitration Week was held in October with record turnout and huge accolades both locally and internationally. In early November, the Global Arbitration Review released its new hearing centres survey ("GAR Survey") as part of its Guide to Regional Arbitration 2016. This is the fourth edition of the guide and reflects data gathered from users of hearing space between 2013 and 2015 (full survey attached).

I am pleased to report that HKIAC has, once again, received international recognition by users of arbitration, this time for its premises. In the GAR Survey, HKIAC has been most highly nominated in most of the categories, including the following:

Location

1. HKIAC: 21%
2. Maxwell Chambers: 15%
3. IDRC London: 12%
4. ICC Paris: 8%
5. Arbitration Place / NYIAC: 5%

Perceived Value for Money

1. HKIAC: 20%

2. Maxwell Chambers: 13%
3. ICC Paris: 7%
4. ICSID / Arbitration Place / ICDR: 5%

#### IT Services

1. HKIAC: 21%
2. Maxwell Chambers: 18%
3. ICC Paris: 12%
4. IDRC London: 8%
5. ICSID / Arbitration Place / Seoul IDRC: 4%

HKIAC's IT services were described as *"combining innovation, such as 'videoconferencing at relatively short notice,' with every day essentials like free, reliable WiFi"*.

#### Helpfulness of Staff

1. HKIAC: 21%
2. Maxwell Chambers: 14%
3. ICC Paris: 11%
4. IDRC London: 10%
5. Arbitration Place: 6%

The survey indicated that *"particularly strong praise was reserved for the HKIAC, where the staff are 'very warm-hearted' and 'really amazingly helpful.'"*

Clearly this international recognition for HKIAC's facilities and its services is the result of HKIAC's many years of effort and dedication towards ensuring that Hong Kong and HKIAC's reputation as a top seat for arbitration remains strong.

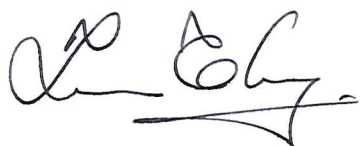
Two points are particularly notable. First, the respondents rated location to be the most important priority in choosing a hearing centre (at 36%). This was followed by price (at 31%) and then room comfort and size (21%). Secondly, the survey expressly stated that *"[t]he HKIAC's 'excellent location at the heart of Central' won over more voters than any other centre, and they were happy to go into detail. One stated, 'Without a doubt, the HKIAC has the best location - it's close to a large number of business hotels and is convenient for law firms. It also has excellent transport links and is very near the Airport"*

*Express.*"

It is for these reasons that whilst HKIAC's move to the French Mission Building ("FMB") would enhance the policy of establishing the "legal hub" in Hong Kong, the users prioritisation of location above and beyond any other feature that a hearing centre could provide must not be ignored. To that end, as the international users have voted and as we have suggested in previous correspondence, the current premises at the 38th floor of Two Exchange Square is the most convenient hearing centre in the world for international arbitration matters. It would be advisable to keep the premises for major hearings. We hope that this matter can be reconsidered in light of this result as it is our common interest to maintain the status of Hong Kong as the most preferred seat in Asia and third most preferred seat in the world (according to the Queen Mary survey mentioned in my previous letter) as well as the top hearing centre in the world.

We look forward to working with you to combine innovative leadership as well as user-oriented services to the next 30 years of promoting arbitration in Hong Kong and HKIAC.

Yours faithfully,



Teresa Cheng, GBS, SC, JP  
Chairperson of HKIAC





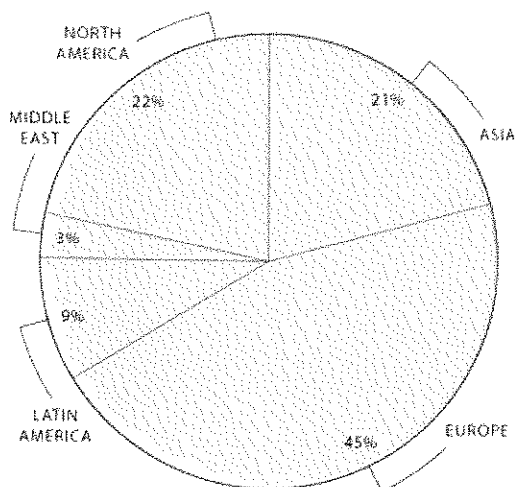
## Hearing Centres Survey

Tuesday, 3 November 2015 (5 months ago) • Survey: [Guide To Regional Arbitration \(volume 4 - 2016\)](#)

The following survey is based on data gathered from users of hearing space between 2013 and 2015.

The following survey is based on data gathered from users of hearing space between 2013 and 2015. We canvassed counsel and arbitrators around the world with a detailed questionnaire on their hearing centre preferences, building on research from previous editions. You can see a geographical breakdown of our responders in Table A. This survey represents a blend of new and older research.

Table A: Where are you based?



Are arbitration-specific hearing spaces really necessary? You'd think so – just judging by how many new ones have been announced in recent years.

But not everybody likes them.

"I have a strong preference for holding the hearing at a hotel," one Swiss counsel told *GAR*. "This enables us to set up 'war rooms' on-site that can be accessed outside of ordinary working hours. This greatly facilitates hearing preparation before and after the actual hearing time. In contrast, at [a

well-known arbitration hearing centre] for example, it is very difficult or impossible to access the breakout rooms before or after standard working hours. For this reason alone, I am not a big supporter of stand-alone dedicated arbitration hearing centres."

Not everybody, of course, wants to visit their files in their pyjamas (and not every hearing centre is off-limits to those who do – many enable it). But it shows that people have preferences.

Overwhelmingly, users prefer hearing centres to hotels (Table B): some respondents even felt the need to add "by far" or "for sure" to emphasise their vote for centres. This isn't a symptom of there being something wrong with hotels, but rather a reflection of a pervasive attitude among respondents that bespoke hearing spaces are somehow safer, given the pressure-cooker world of international arbitration.

Table B: Venue preferences

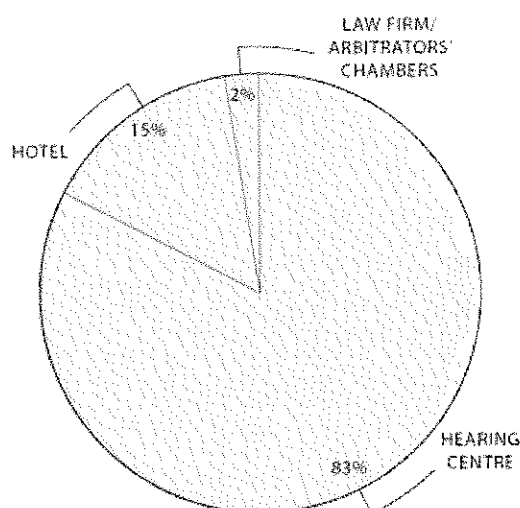
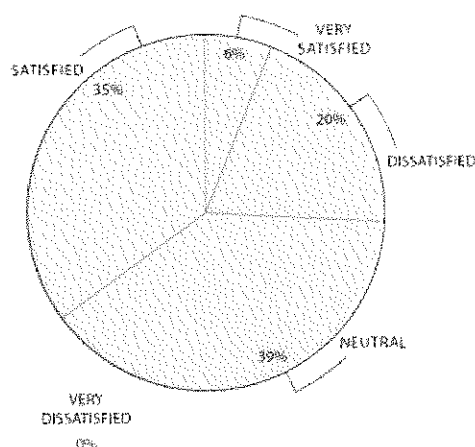


Table C: Level of satisfaction with quality of arbitration-suitable hearing spaces around the world



"My view is that a hearing centre is better equipped to assist lawyers in a demanding environment," said one source. "A hearing centre is more likely to be responsive to urgent requests than a hotel." Another source emphasised the fact that no one else understands the needs of an arbitration like a centre built to purpose.

While Table C may appear to show general satisfaction with the current stock of arbitration hearing space in the world, the opposite is in fact true. Many of those who opted for "neutral" made it clear they were in fact dissatisfied in a follow-up question. Cities or regions that emerged as problematic (or, as the questionnaire put it, "where finding a good space for a hearing can be difficult") included Geneva ("Go to Lausanne," was one person's tip), Zurich, New York and Stockholm (prior to recent improvements in the latter two cities). Moscow, Tokyo, Beijing, India and "the whole of Africa

and many parts of Asia" were also described as "difficult".

But wherever you are in the world, there's usually at least one hotel of sufficient quality happy to oblige.

The Swiss Arbitration Hub, launched by the Swiss Arbitration Association in 2013, for instance, claims that dedicated hearing space is not necessary, or even desirable, as the country has a surplus of hotels and conference centres that routinely host arbitral hearings as well as arbitration-specific service providers. The website allows users to select a region or city for the hearing and then choose hotels, hearing rooms and breakout rooms, which can be arranged on the basis of size and budget.

So why the dissatisfaction? Well, for one thing, availability.

"Have you tried booking [meeting] space for a long period in Hong Kong?" said one contributor to our survey. "It's nearly impossible to book the same hotel for the entire duration you're likely to require." (This, he added, is true even of the hotel you will actually be sleeping in.)

"In some cities," agreed another respondent, "it's always a scramble to find your space." And it's worse, he added, when other big events are on, "like fashion week!"

The client can make it hard too: they sometimes balk at paying top dollar at an expensive hotel. One contributor remembered a four-star hotel that was "so bad we immediately tried to upgrade our rooms to the suites".

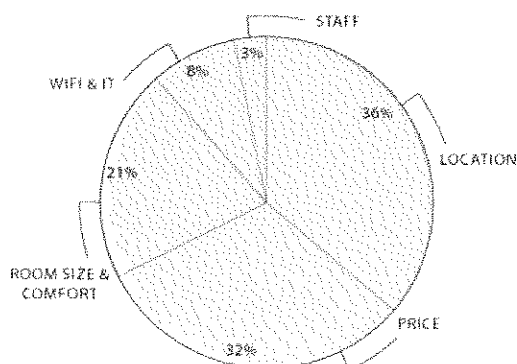
Unfortunately, their opponents had arrived a day earlier and had the same idea. "So none were left." The case settled on the first day "and we were all very happy to leave".

The second key problem is familiarity. Laying out and minding an arbitration is an art unto itself and, with the exception of a few hotels in Switzerland, it's not one in which hotel staff have usually been trained. That creates annoyances such as the continual re-explaining of room layouts, mix-ups over security and confidentiality, and confusion about who's allowed access to which rooms.

"You can make hotels work," said one US counsel and arbitrator, "but it definitely requires a site visit beforehand to avoid surprises."

Even then there are always things you can't plan for. The life of a grand hotel is rich and varied, and will often spill over into the arbitration. One arbitrator reported having to move his hearing after an Arab princess arrived unannounced and demanded the use of the hotel's entire conference area. Where did the arbitration end up? Downstairs, in the disco.

Table D. Hearing centre top priorities



It's more likely, however, that you'll be interrupted by the noise of a wedding DJ or a round of "Happy Birthday". And sometimes it's none of the above. "My *bête noire*," says a Dutch lawyer, "is soup, which our hotels insist on serving if it's part of the lunch deal – irrespective of time. They just leave it there, and then you've got a bubbling smelly pot in the middle of a room. On one

occasion they left it in the breakout room overnight. Not only was the smell truly impressive, the thing got so overheated that I burnt my hand lifting the lid."

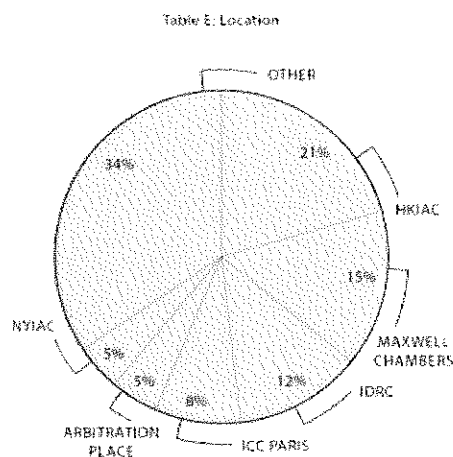
Law firm offices or the arbitrators' offices may be an option; indeed Table B finds a small percentage of users who favour them above any other option. But the meeting rooms in firm offices can be small, and arbitrators' chambers aren't neutral territory. (The survey produced anecdotal evidence that a few law firms are indeed unwilling to welcome a hearing – with all the hubbub it can entail – into their otherwise silent halls.)

Approve or disapprove, more bespoke hearing centres are appearing. So, what do users most prize in a hearing centre?

In June 2015, Lord Goldsmith QC provided a good answer to that question. He told attendees at the launch of the British Virgin Islands Arbitration Centre:

"It should offer the services that its clients have become used to – comfortable surroundings that are conducive to work; easy and quick internet access; easy access to refreshment and accommodation; transcription and translation facilities; adequate hearing rooms able to accommodate small hearings and large events [...]; good document management systems."

As a list of deciding factors in users' choice of hearing centre, this is hard to argue with. When we asked arbitrators and counsel what would make them favour one centre over another, their responses adhered closely to Goldsmith's checklist (Table D).



These findings suggest that, for now at least, it's the basics that matter most: a good location, value for money, adequate space and comfort, reliable IT and helpful staff.

Having established these criteria, the logical next question is, which centres best fulfil each category?

Unsurprisingly perhaps, the more recently established

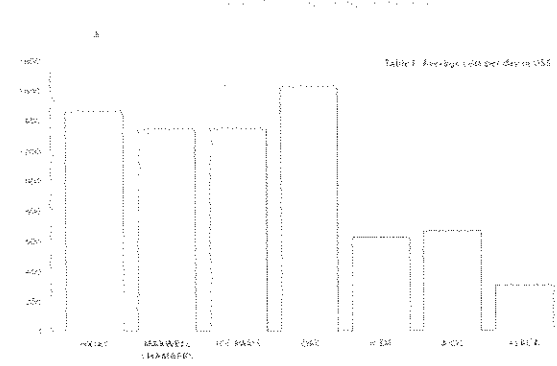
centres often seem to be setting the benchmark.

One source, in support of their nominations for NYIAC (established 2013), said, "It's had the opportunity to learn from and improve upon the older centres," which is true of other young centres too.

More-established hearing centres can have charms of their own.

"They have something special in combining historic, grand spaces and an overall atmosphere conducive to arbitration," said one source of the Peace





Palace and the ICC Hearing Rooms. The Peace Palace was noted in our research for its highly responsive staff and “very spacious and august” rooms, while contributors liked the modernity and technical specifications of the Paris rooms (introduced in 2008), along with the overall

convenience it had provided in a city that sometimes used to be a pain.

LOCATION

Location, as Goldsmith noted and our respondents affirmed, is the key factor in the choice of a hearing centre. But there are still multiple points to be considered: a hearing centre can be well located in its city or in a favourable location in the world.

Maxwell Chambers offers incredible facilities – but it is also based in Singapore, a major commercial hub in the region. Likewise, NYIAC has been able to tap into the pent-up demand for hearing space in New York. The impression Toronto-based Arbitration Place has made is all the more remarkable in this context, given its host city hasn’t yet attained similar “hub” status.

While a “good” location is less measurable than room size or cost, and more open to personal taste, Table E shows that some centres have, by general consensus, placed themselves well in their home cities.

The HKIAC’s “excellent location at the heart of Central” won over more voters than any other centre, and they were happy to go into detail. One stated, “Without a doubt, the HKIAC has the best location – it’s close to a large number of business hotels and is convenient for law firms. It also has excellent transport links and is very near the Airport Express.”

The IDRC was also praised mainly for its centrality, but Maxwell Chambers’ feedback was more mixed: respondents noted that it was harder to access good hotels and that the offices didn’t have as central a location as some would like. But the appeal of Singapore itself appears to be enough to assuage these concerns.

PRICE

Established centres in Paris and London generated a fair amount of adverse comments when it came to perceived costliness, while newer counterparts generated almost none.

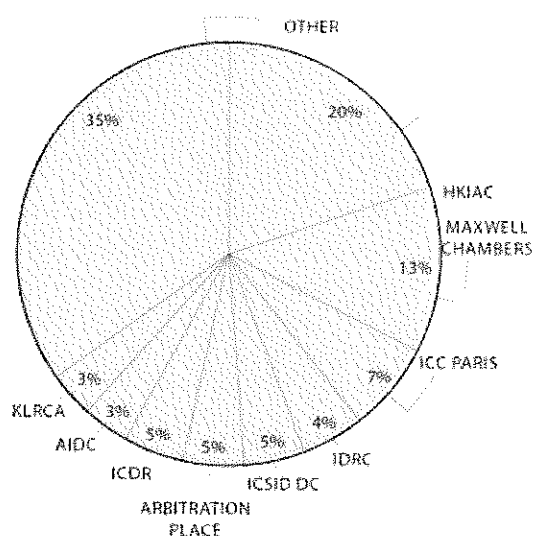
Table F (page 9) shows the average cost for hearing space per day in US

dollars, while Table G shows the hearing centres that respondents said offered the best value for money. Arbitration Place and ICSID have been omitted from the second chart because flat-rate figures were unavailable.

#### PERCEIVED VALUE FOR MONEY

The HKIAC and Maxwell Chambers – while ranked in first and second place respectively for perceived value for money relative to other centres and hotels – are also among the most expensive of the centres surveyed. When asked for further comment, sources noted that the HKIAC's costs were easily justified by the benefits it offers: "The prices at the Hong Kong International Arbitration Centre are very competitive and very reasonable, taking into account of the location and facilities provided," said one, while another praised the centre's "Reasonable prices compared to other hearing venues in the region."

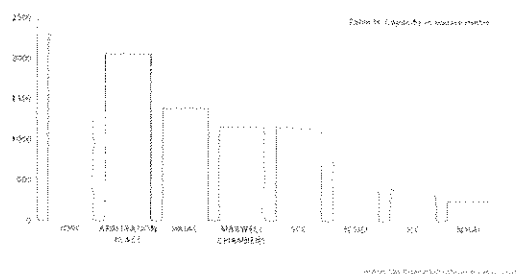
Table G: Perceived value for money



While we found that, true to respondents' perceptions, the ICC hearing rooms in Paris and the IDRC in London are also among the most expensive centres (with the latter topping this list at more than US\$1,600 per day on average) they were ranked similarly to cheaper competitors like the ICDR, AIDC or KLRCA when it came to delivering value for money.

#### ROOM SIZE AND COMFORT

While neither the ICC or Maxwell Chambers lead the field in terms of available space – the refitted IDRC in London is the largest centre in the survey (see Table H) – they came out on top in a category where voters argued the importance of everything from capacity to shelf-space, and from overall tidiness to the quality of chairs.

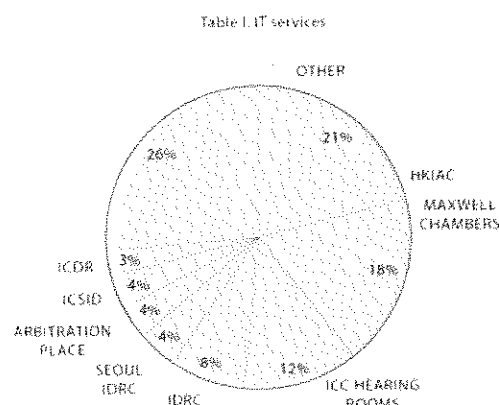


Maxwell Chambers enjoyed vocal support: it "stands out for the variety of room sizes, layouts to choose from, good natural lighting, easy availability and user-friendliness," said one user, while another praised its "24-hour availability and holistic support (as well as the best post-it pads ever)".

The ICC stood out for the volume of recommendations.

## IT SERVICES

“All should (and seem to) have these,” said one user about IT facilities at hearing centres – and yet there are variations.



Here, perhaps more than in other categories, the nature of the case at hand was relevant to users' recommendations. At the Peace Palace for instance, each IT and WiFi setup is bespoke – the needs of that case are taken account of in the setup, which is created and dismantled anew each time. “[The] advantage [of this] is arguably a better WiFi and IT service that targets specific user

needs and has immediate troubleshooting,” said one source “[The] disadvantage is greater cost for IT vis-à-vis hearing centres.”

Others were recommended for particular innovative services: “We used the video conferencing facilities of Maxwell Chambers@Centennial in order to cross-examine an expert witness in London, and they were very good. The video and audio were very clear and there was very little lag.”

The HKIAC was again the most highly nominated centre, combining innovation, such as “videoconferencing at relatively short notice,” with everyday essentials like free, reliable WiFi.

And in spite of the expectations of some respondents, the recommendations we received cut across the generational divide and recognised qualities in both old and new centres. That commentators frequently noted that there was “no significant difference” between most centres in this regard speaks well to those older operations that have retrofitted recently. Those that haven't, meanwhile, were criticised.

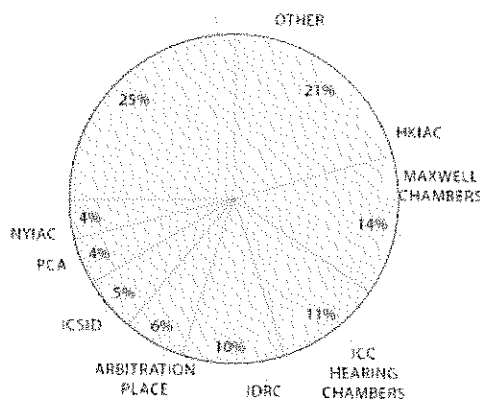
## HELPFULNESS OF STAFF

Unlike other categories we considered, our questions about the quality of centres' staff garnered very few critical responses – “I am not aware of any centre where there is not a helpful staff,” said one source, and another added that the staff in all the centres he'd used were “attentive and helpful”.

Particularly strong praise was reserved for the HKIAC, where the staff are “very warm-hearted” and “really amazingly helpful”, and Maxwell Chambers, where they are “quick”, “responsive” and “very welcoming”.

Again, the “other” section is large, suggesting a broader cross-section of centres that have got this aspect of their offering right.

Table 3: Helpfulness of Staff



The survey also asked which centres respondents had heard good things about but never used – perhaps unsurprisingly, considering how long they’ve been operating, the newer centres dominated the list. However, the fact that they were mentioned at all speaks well of their respective publicity campaigns and the power of word-of-mouth. “I have used the prior HKIAC facilities but I

understand the current facilities are exceptional,” said one source, “I’ve heard great things about the new New York Arbitration Centre,” said another, while the new KLRCA centre “has potential to be the best outside the Peace Palace.”

If nothing else, the GAR survey highlights how far things have come in a short space of time. As one contributor remembered, “For the longest time it was the exception rather than the norm that you could find good-quality arbitration centres. As a younger lawyer I recall being shocked at how poor hearing facilities were in some of the well-established seats: Paris, Zurich, Geneva.”

To go back to Goldsmith’s remarks, clients have become used to a certain standard of service from a hearing centre, and this standard has been set, it would seem judging by the above results, as much by regional centres like the HKIAC and Maxwell Chambers as by time-honoured institutions such as the Peace Palace.

As more and more new centres emerge, and as consensus over what makes a good centre grows, it looks like the future will be a good deal more comfortable.

Survey: [Guide To Regional Arbitration \(volume 4 - 2016\)](#)

## Annex D

**Sent:** Wednesday, March 09, 2016 6:48 PM  
**To:** Rimsky Yuen  
**Subject:** Premises: FMB and West Wing 6/F

Dear Rimsky,

I wish to inform you that I have relayed the following message from you to members of Council on 4 March 2016 after our meeting:

- 1. The FMB is provided to and managed by HKAIC exclusively and other bodies who may be housed there will be subject to the arrangement by and agreement of HKAIC. There is no current plan to house other bodies on the second floor or the chapel.*
- 2. As to the West Wing 6/F, it is to be a hearing centre to be managed by HKAIC. Room rentals for arbitrations will be received by HKIAC. It is to be opened to all but DOJ is not able to confirm if HKIAC can receive the revenue generated by rentals of the rooms for events or mediation proceedings of other organisations.*

The Council members were extremely concerned about the second point and wish to convey to the DOJ the following:

The second point is a complete change of our current arrangement at 38/F: that is the 38/F is opened to all but the rental revenue is to be held by HKIAC. If the rental could not be received by HKAIC, the whole package will not be acceptable nor feasible for HKAIC. Room rental is a main stream of income for HKIAC, without which it is not possible to fund its operations. You will recall that the FMB and the WW 6/F already represented a reduced usable area and hearing room sizes as compared to our current premises and we have expressed concern about the inability to host major arbitrations in future. If the rental is to be further curtailed, not just by size and number of rooms but also the usage, HKAIC will not be able to continue its operations.

We have not had the chance to discuss renovation costs for WW 6/F, but as I have repeatedly indicated, HKIAC simply cannot fund the renovation costs and funding for that has to be sourced from HKG. We are happy to discuss ways to raise funding from various sources after the position regarding rental on 6/F WW is resolved.

I thank you for your attention and await clarifications regarding rental from WW 6/F. Kindly appreciate the difficulties HKAIC will face and your understanding and assistance is greatly appreciated.

Regards  
Teresa