

**For discussion on
31 May 2021**

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

Latest developments in international arbitration for Hong Kong

INTRODUCTION

The Government of the Hong Kong Special Administrative Region (“HKSAR”) has been committed to developing Hong Kong as a leading international arbitration centre in the Asia-Pacific region and promoting Hong Kong as a preferred seat of arbitration for both local and overseas parties. This paper provides an overview of the latest developments in this regard, including arbitration-related measures and promotional efforts carried out by the Department of Justice (“DoJ”) and arbitral institutions in Hong Kong.

LATEST DEVELOPMENTS

I. Breakthrough in maritime arbitration

(i) Development of HKMAG

2. Originally formed in February 2000 as a Division of the Hong Kong International Arbitration Centre (“HKIAC”), the Hong Kong Maritime Arbitration Group (“HKMAG”) became an independent organisation in March 2019 to further bolster the development of maritime arbitration through a better and dedicated institutional set-up. It is formed by a group of maritime professionals of diverse background, expertise and industry experience with the aim of promoting the use of maritime arbitration and mediation in Hong Kong.

3. A key development of HKMAG is the adoption of its own set of maritime arbitration procedural rules, namely, the HKMAG Terms (2017), which are substantially based on the 2017 version of the Terms of the London Maritime Arbitrators Association (“LMAA”), with changes made

to incorporate references to the Arbitration Ordinance (Cap. 609) of Hong Kong. With the adoption of the HKMAG Terms (2017), similar to other maritime arbitration jurisdictions including the Mainland, London and Singapore which have their own sets of custom-designed maritime arbitration rules, Hong Kong now has its own set of maritime arbitration rules which would better suit the local situation while adopting the features of LMAA.

4. HKMAG maintains a List of Full Members¹ as well as a List of Members². The Lists provide the industry with a source of experienced maritime arbitrators of diverse background from which parties can select to hear their disputes. As at 13 May 2021, there are 11 members on the List of Full Members and 26 members on the List of Members. Additionally, HKMAG is a qualified arbitral institution under the Interim Measures Arrangement as described in paragraph 16 below.

(ii) *Addition of Hong Kong as the fourth named arbitration venue in the Dispute Resolution Clause in BIMCO's standard contract*

5. The Baltic and International Maritime Council ("BIMCO") has officially included Hong Kong as one of the four arbitration venues³ under the BIMCO Law and Arbitration Clause on 21 September 2020. BIMCO is the world's largest direct-membership organisation for shipowners, charterers, shipbrokers and agents and a leading organisation responsible for developing standard contracts for the shipping industry. The decision by BIMCO is a vote of confidence and recognition of Hong Kong as an efficient and effective venue for the resolution of maritime disputes. This outcome is a result of the joint efforts in promoting maritime arbitration by HKMAG, Hong Kong Shipowners Association, practitioners and various government departments in Hong Kong over the years.

¹ Applicants who wish to be listed as Full Members will have to demonstrate to HKMAG Committee sufficient experience, judgment and conflict-free handling of maritime arbitration disputes. The Committee may recommend that an applicant first join the list of Members in order to gain more experience and industry recognition (see HKMAG's website: <https://www.hkmag.org.hk/membership>).

² This membership category is intended for applicants who wish to gain more experience of sitting as an arbitrator in maritime arbitrations. (see HKMAG's website: <https://www.hkmag.org.hk/membership>)

³ The other three venues are London, New York and Singapore.

6. The new BIMCO Law and Arbitration Clause 2020 incorporates the specific provisions of each venue for user's selection and includes new and useful provisions in relation to the serving of notices. Among other things, the Hong Kong version of the BIMCO clause states that the seat of arbitration shall be Hong Kong and the arbitration shall be conducted in accordance with the HKMAG Terms. This is also a significant development for HKMAG. We believe that this latest development will help attract more maritime arbitrations to be conducted in Hong Kong, thereby enhancing its status as an international legal hub for legal, deal-making and dispute resolution services.

(iii) Promotion of maritime arbitration services

7. DoJ has been organising conferences and events relevant to maritime arbitration services from time to time. Following the success of the "Hong Kong Maritime Week 2019: Mock Arbitrations", DoJ has co-organised with CMAC Hong Kong Arbitration Center, CIArb East Asia Branch, Hong Kong Maritime Law Association and HKMAG the "Mock Arbitrations 2020" on 20 November 2020. The event has featured mock arbitration hearing sessions with the aim of showcasing typical procedures adopted in maritime arbitrations, such as applying for interim measures and dealing with substantive matters of facts and law. By attending the event, participants could familiarise themselves with the common practice adopted in resolving maritime-related disputes using arbitration.

8. DoJ has also supported two events, namely, (1) the "Virtual Forum on the Role of Hong Kong Maritime Arbitration in China's International Shipping and Trade"⁴ held on 7 January 2021 and (2) the "Joint Webinar on the Development of Maritime Regulations in China and its impact on shipping"⁵ held on 30 March 2021. The BIMCO Law and Arbitration Clause 2020 (Hong Kong) and the practice of Hong Kong maritime arbitration under the HKMAG terms were discussed by the Committee

⁴ The Virtual Forum was organised by HKMAG together with four renowned universities in China, i.e. Dalian Maritime University, Shanghai Maritime University, East China University of Political Science and Law, Ningbo University.

⁵ The Joint Webinar was organised by Hong Kong Shipowners Association, and co-organised by Dalian Maritime University Hong Kong and Macau Alumni Association, Shanghai Maritime University Hong Kong Alumni Association and China Maritime Arbitration Commission Hong Kong Arbitration Center.

members and Full Members of HKMAG at the event on 7 January 2021 while the process of revising the relevant maritime laws in the Mainland and the ratification of the international convention as well as their long-term impact on shipping were discussed by maritime law experts from both China and overseas and representative from international organisation at the event on 30 March 2021 . DoJ will continue to work closely with the local legal and arbitration community to organise events to promote maritime legal and arbitration services in Hong Kong.

II. Pilot Scheme on Immigration Facilitation for Persons Participating in Arbitral Proceedings in Hong Kong

9. The Government launched on 29 June 2020 the Pilot Scheme on Facilitation for Persons Participating in Arbitral Proceedings in Hong Kong (“the Pilot Scheme”). It aims to provide facilitation for eligible non-Hong Kong residents participating in arbitral proceedings in Hong Kong on a short-term basis. Under the Pilot Scheme, nationals of countries who may visit Hong Kong visa-free (“visa-free nationals”) and are in possession of the "Letter of proof" (“the Letter”) are allowed to participate in arbitral proceedings in Hong Kong as visitors, i.e. they will not be required to obtain employment visas. The duration that they may stay in Hong Kong for participating in arbitral proceedings shall not exceed the current visa-free period for visit. The Pilot Scheme is run on a trial basis for two years.

10. The Pilot Scheme covers the following four categories of visa-free nationals, namely (i) arbitrators; (ii) expert and factual witnesses; (iii) counsel in the arbitration; and (iv) parties to the arbitration (“Eligible Persons”).

11. The Pilot Scheme is not applicable to persons who require a visa or entry permit to visit Hong Kong as well as residents of the Mainland, Macao and Taiwan.

12. Persons who are seeking to benefit from the Pilot Scheme shall obtain the Letter confirming that they are Eligible Persons participating in arbitral proceedings in Hong Kong:

- (a) For arbitrations that are being administered by an arbitral

institution, the Letter shall be issued by one of those qualified arbitral and dispute resolution institutions and permanent offices in Hong Kong⁶ which satisfies the criteria set out under Article 2(1) of the Interim Measures Arrangement as described in paragraph 16 below.

- (b) For *ad hoc* arbitrations (i.e. arbitrations not administered by an arbitral institution) that are held in reputable venue(s) with established and well-equipped hearing facilities (namely, HKIAC and DoJ), the Letter shall be issued by such venue providers.

13. DoJ has issued a Guidance Note on the Pilot Scheme to the abovementioned arbitral institutions on 26 June 2020.

14. Although the Pilot Scheme has not been utilized at present due to the travel restrictions resulting from the COVID-19 pandemic, and no Letter has been issued so far, we believe that the Pilot Scheme will strengthen Hong Kong's position as an international centre for legal and dispute resolution services in the Asia-Pacific region in the long run, and be in line with the Belt and Road Initiatives as well as the Guangdong-Hong Kong-Macao Greater Bay Area Development.

15. The Pilot Scheme will be reviewed in two years' time to assess if the stated objectives have been achieved and whether there is a case to further expand the scope of the Pilot Scheme to other jurisdictions (including the Mainland).

III. Developments in relation to the Mainland

(i) Implementation of the Interim Measures Arrangement

16. On 2 April 2019, DoJ and the Mainland signed 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 ("Interim Measures Arrangement"). Pursuant to the Interim Measures

⁶ For details of the list of institutions and permanent offices and their contact details, see the DoJ website (www.doj.gov.hk/eng/public/interim_measures_outcome.html) and www.doj.gov.hk/pdf/2019/list_of_institutions_e.pdf.

Arrangement, parties to arbitral proceedings seated in the HKSAR and administered by designated arbitral institutions may apply to the Mainland courts for interim measures, including property preservation, evidence preservation and conduct preservation. It aims at preventing one of the parties to arbitral proceedings from deliberately destroying the evidence or dissipating the assets, or to maintain the status quo, in order to ensure that the arbitral proceedings can be carried out effectively.

17. Upon the signing of the Interim Measures Arrangement, Hong Kong has become the first jurisdiction outside the Mainland where, as a seat of arbitration, parties to arbitral proceedings administered by its arbitral institutions would be able to apply to the Mainland courts for interim measures. It marks our strength under the “one country, two systems” and enhances Hong Kong’s status as the centre for international legal and dispute resolution services in the Asia-Pacific region.

18. For the background and details of the Interim Measures Arrangement, please refer to the Information Paper on “Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region”⁷ issued by DoJ for the meeting of this Panel held on 29 April 2019. The following aims to provide some latest information on the implementation of the Interim Measures Arrangement.

19. On 26 September 2019, DoJ announced the list of six qualifying arbitral and dispute resolution institutions and permanent offices⁸ (collectively, “designated institutions”) which are eligible for applying to the Mainland Courts for interim measures under Article 2(1) of the Interim Measures Arrangement. The Interim Measures Arrangement came into effect on 1 October 2019 and applies to applications for interim measures made to the courts on or after that date.

20. To familiarise Hong Kong and Mainland legal practitioners with the Interim Measures Arrangement, DoJ co-organised with the Supreme

⁷ LC Paper No. CB(4)725/18-19(01)

⁸ They are HKIAC, China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center, International Court of Arbitration of the International Chamber of Commerce - Asia Office, HKMAG, South China International Arbitration Center (HK), eBRAM International Online Dispute Resolution Centre.

People's Court ("SPC") a seminar on the Interim Measures Arrangement, which was hosted by HKIAC on 19 October 2019. The seminar was attended by around 90 participants.

21. Since the coming into operation of the Interim Measures Arrangement on 1 October 2019, as at 23 April 2021, the designated institutions have referred a total of 43 interim measures applications⁹ to the relevant Intermediate People's Court for preservation of evidence, conduct or assets worth RMB 13.8 billion in total. So far, from the information made available by the designated institutions, there are 28 decisions issued by the Intermediate People's Courts, amongst which 26 granted the applications for preservation of assets upon the applicant's provision of security and two rejected the applications. The total value of assets preserved by the 26 decisions amounted to RMB 10.5 billion.

(ii) Signing of the Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR

22. Another important recent development relates to the signing of the *Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR* between DoJ and SPC on 27 November 2020 ("the Supplemental Arrangement").

23. The Supplemental Arrangement amends the *Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR*, signed on 21 June 1999 and came into effect on 1 February 2000 ("the Arrangement") in the following aspects:

- (a) expressly including the term "recognition" when referring to enforcement of arbitral awards in the Arrangement for greater certainty;
- (b) adding an express provision to clarify that a party may apply for preservation measures before or after the court's acceptance of an application to enforce an arbitral award for

⁹ 40 applications were made for the preservation of assets, two were for the preservation of evidence, and one was for the preservation of conduct. One other application is pending reference to the relevant Intermediate People's Court.

greater certainty;

- (c) aligning the definition of the scope of arbitral awards with the prevalent international approach of "seat of arbitration" under the New York Convention; and
- (d) removing the current restriction of the Arrangement to allow parties to make simultaneous application to both the courts of the Mainland and the HKSAR for enforcement of an arbitral award.

24. For the background and details of the Supplemental Arrangement, please refer to the “Administration’s paper on the legislative amendment proposal related to the Supplemental Arrangement”¹⁰ submitted to this Panel for discussion at the meeting held on 27 January 2021.

25. The Supplemental Arrangement further refines the existing Arrangement and brings it more fully in line with the prevailing practice of international arbitration.

26. In the Mainland, the Supplemental Arrangement is implemented by way of a judicial interpretation as promulgated on 27 November 2020. In Hong Kong, the provisions in relation to paragraph 23 (a) and (b) above can be implemented within the existing legislative framework and have thus come into effect on 27 November 2020 as well. The provisions in relation to paragraph 23 (c) and (d) above will come into effect after the necessary amendments to the relevant provisions under the Arbitration Ordinance (Cap. 609) have been enacted locally. Relevant legislative amendments have been introduced and on 17 March 2021, the Arbitration (Amendment) Bill 2021 was passed by the Legislative Council. The amendments in relation to paragraph 23(c) and (d) above have come into operation on 19 May 2021.

27. The Supplemental Arrangement will be conducive to the development of Hong Kong's legal and dispute resolution services. Hong Kong's status as an international legal hub for legal, deal-making and dispute resolution services will be further enhanced.

¹⁰ LC Paper No. CB(4)403/20-21(04)

IV. Development of Hong Kong's arbitration services in Russia

28. Following the Russian arbitration reform introduced in September 2016, institutional arbitrations seated in Russia and arbitrations concerning certain types of corporate disputes in respect of Russian companies can only be submitted to a permanent arbitral institution ("PAI") as defined in the Federal Law¹¹. On 25 April 2019, HKIAC has been recognised by the Russian Ministry of Justice as a PAI.¹²

29. As a PAI, HKIAC became the first international arbitral institution authorised to administer (i) international disputes seated in Russia; (ii) disputes between parties from any special administrative region as defined under Russian law or disputes arising from agreements to carry out activities in any such region; and (iii) disputes arising from contracts made in accordance with or in connection with Federal Law No. 223-FZ dated 18 July 2011 "On Procurement of Goods, Works and Services by Certain Types of Legal Entities" seated in Russia; and (iv) certain types of corporate disputes¹³ in respect of a legal entity in Russia.¹⁴

30. So far, only two foreign arbitral institutions, i.e. HKIAC and the Vienna International Arbitral Centre, have obtained the PAI status. In

¹¹ Federal Law No. 382-FZ dated 29 December 2015 on Arbitration in the Russian Federation, as amended by, among others, the Federal Law No. 531-FZ dated 27 December 2018 ("Federal Law")

¹² See the press release issued by HKIAC entitled "HKIAC permitted to administer disputes in Russia" dated 9 April 2019 at <https://www.hkiac.org/content/hkiac-permitted-administer-disputes-russia>.

¹³ The following types of corporate disputes in respect of a legal entity in Russia can be administered by HKIAC:

(a) "disputes concerning the ownership of stocks, shares in the charter capital of business companies and partnerships, share contributions by the members of production cooperatives, their encumbrance and the exercise of rights, arising from them", such as disputes arising out of share purchase agreements;

(b) "disputes arising from agreements between the participants of a legal entity concerning the management of that legal entity including disputes arising from corporate agreements", such as disputes arising out of shareholders' agreements; and

(c) "disputes arising from the activities of registrars of placement owners, regarding the registration of rights to stocks and other securities, the exercise of their rights and discharge of other obligations, provided by federal law in connection with the distribution and (or) circulation of securities, by the registrar of placement owners".

¹⁴ See Footnote 12 above. There are, however, various other disputes which HKIAC is not eligible to administer as a matter of Russian law. Under the Federal Law, certain other corporate disputes such as derivative claims may only be administered by institutions with PAI status and special rules for corporate disputes. HKIAC does not currently have special rules for corporate disputes. Nor does HKIAC have a separate division in Russia which, in addition to PAI status, is a requirement for a foreign arbitral institution to administer domestic arbitrations.

order to acquire the status of a PAI, the institution must possess a “widely recognised international reputation” which is assessed based on a set of criteria adopted by the Russian Ministry of Justice.¹⁵ The grant of the PAI status to HKIAC will no doubt increase the use of HKIAC’s services by both Russian and foreign parties in the context of Russia-related international disputes.

31. Since 2009, HKIAC has administered or acted as the appointing authority in 20 cases involving Russian parties. In 2019, HKIAC registered the highest number of cases involving Russian parties in any calendar year, i.e. 5 cases. Since HKIAC acquired the PAI status, it has received multiple enquiries from Russian practitioners and companies about its services and the inclusion of HKIAC in their contracts. To the knowledge of HKIAC, HKIAC has already been included in numerous Russia-related contracts.

32. To further enhance its competitiveness for resolving Russia-related disputes, HKIAC has implemented various measures in recent years. For instance, arbitrators experienced in Russia-related matters are included in HKIAC’s Panel or List of Arbitrators (11 arbitrators on HKIAC’s Panel and List of Arbitrators are admitted to practice law in Russia while 27 arbitrators on HKIAC’s Panel and List of Arbitrators speak Russian). The 2013 and 2018 HKIAC Administered Arbitration Rules are available in the Russian language. In terms of manpower, HKIAC has appointed Professor Anton Asoskov, an eminent Russian academic and arbitrator, to its Council and hired Ms Victoria Khandrimaylo, a Russian lawyer, as its Counsel. Since 2014, HKIAC has organised or its representatives have spoken at more than 35 events in Russia (including virtual events in 2020). HKIAC has also entered into cooperation agreements with the Russian Arbitration Association, the Russian Arbitration Centre (formerly the Institute of Modern Arbitration), the Roscongress and the Arbitration Centre at the Russian Union of Industrialists and Entrepreneurs.

V. Developments on online dispute resolution

33. Various international and regional organisations such as the United

¹⁵ See footnote 12 above.

Nations Commission on International Trade Law (“UNCITRAL”) and Asia-Pacific Economic Cooperation (“APEC”) are taking active steps to promote and use online dispute resolution (“ODR”) to provide a reliable and efficient platform for alternative dispute resolution. By drawing reference from the UNCITRAL ODR Technical Notes, APEC developed a Collaborative Framework on ODR of Cross-Border Business to Business Disputes (“APEC ODR Framework”) and model procedural rules in 2019, with micro, small and medium-sized enterprises (“MSMEs”) as the major beneficiary. The APEC ODR Framework promotes the use of ODR by global enterprises (MSMEs in particular) to resolve low-value cross-border disputes. Hong Kong, China has opted into the said framework in April 2020.¹⁶

34. Following the onset of the COVID-19 pandemic, in anticipation of an upsurge of disputes arising from or relating to COVID-19, the Government announced on 8 April 2020 the establishment of the COVID-19 Online Dispute Resolution Scheme (“the Scheme”) under the Anti-epidemic Fund to provide speedy and cost effective ODR services to the general public and businesses, in particular MSMEs. The eBRAM International Online Dispute Resolution Centre Limited (“eBRAM Centre”) has been engaged to provide ODR and related services under the Scheme and operates the Scheme independently. The Scheme was launched on 29 June 2020.

35. Under the Scheme, a dispute can be submitted to the online platform for resolution if it (i) involves one party from Hong Kong (a resident of Hong Kong or a company registered in Hong Kong), (ii) is COVID-19 related and (iii) involves a dispute amount of not more than HK\$500,000.

36. The parties are required to enter into a dispute resolution

¹⁶ Following the endorsement of the Work Plan for Developing a Cooperative ODR Framework for MSMEs in B2B transactions by the APEC Economic Committee in August 2017, in August 2019, the APEC ODR Framework was endorsed by the APEC Economic Committee, which provides a framework for businesses, in particular MSMEs in participating economies, to engage in technology-assisted dispute resolution through negotiation, mediation and arbitration for B2B claims. As of 16 November 2020, China, Singapore, the US, Japan, as well as Hong Kong, China have opted into the APEC ODR Framework, while a number of other member economies are undergoing internal procedures with a view to opting into the said framework in the near future. Since September 2019, a counsel from DoJ has assumed the Chair of the APEC Economic Committee, who will play a significant role in driving APEC’s work on ODR.

agreement under the Scheme and pay only HK\$200 each as registration fees. The fees for mediators and arbitrators are paid by the Government.

37. Under the Scheme, the process to be adopted is a multi-tiered dispute resolution mechanism where the parties will first attempt to negotiate their disputes, followed by mediation and if that does not result in settlement, then subsequently to arbitration for a final and binding award. Each tier will be conducted within a limited time.

38. The Scheme aims to offer a speedy and cost effective means to resolve disputes among parties, avoiding disputes and differences from being entrenched, thereby helping to build and reinforce a harmonious society. It may help relieve the court's caseload in civil claims and have the benefit of job creation and job advancement for the legal and dispute resolution sector. The Scheme is in line with the APEC ODR Framework and at the same time strengthens Hong Kong's LawTech capability.

39. On 8 January 2021, the Finance Committee of the Legislative Council has approved the Government's proposal to provide one-off funding support of HK\$100 million to the eBRAM Centre for the development, enhancement and initial operation of an online dispute resolution and deal making platform (i.e. the eBRAM platform). For the background and details of the said proposal of funding support, please refer to the paper on the "One-off Funding Support for the Development and Enhancement of an Online Dispute Resolution and Deal Making Platform by a Non-governmental Organisation"¹⁷ submitted by DoJ for discussion at the meetings of the Finance Committee held on 16 December 2020 and 8 January 2021.

40. Building on the foundation of the COVID-19 ODR Platform, the eBRAM Centre is developing a new ODR platform (i.e. APEC ODR Platform) and its accompanying procedural rules for the APEC ODR Framework. Such platform will incorporate simultaneous translation/interpretation services for major languages commonly used among the APEC economies. The eBRAM Centre will seek to become an ODR service provider for APEC economies under the APEC ODR

¹⁷ LC Paper No. FCR(2020-21)76

Framework, which if successful will represent a big step towards enhancing Hong Kong's LawTech development and consolidating Hong Kong's position as an international dispute resolution services centre.

41. Recently, the eBRAM Centre has agreed to provide e-mediation services to parties to disputes arising from the Intervention into the practice of Messrs Wong Fung & Co. ("the Firm") by the Law Society of Hong Kong. The Law Society has reason to suspect the dishonesty of a former clerk of the Firm who had misappropriated money belonging to the Firm's clients and has therefore intervened into the practice of the Firm. The intervention may have caused disruptions to client matters leading to disputes. To facilitate parties to resolve their disputes by mediation, the eBRAM Centre has agreed to assist by providing its video conferencing platform for the parties to conduct online mediation and the technical support during the mediation proceedings.¹⁸

42. The Government also supports further development of LawTech, not just in Hong Kong but also internationally. On 2 November 2020, the DoJ Project Office for Collaboration with UNCITRAL ("DoJ Project Office") was established in the Hong Kong Legal Hub pursuant to a Memorandum of Understanding signed with UNCITRAL in 2019. The Inclusive Global Legal Innovation Platform on ODR ("iGLP on ODR"), which composed of experts around the world, was set up with support by the DoJ Project Office to facilitate studies on ODR related issues. The first meeting of the iGLIP on ODR was held on 18 March 2021 at which experts from Oceania, Europe, Africa, Americas and Asia exchanged views and discussed international developments of various online platforms with a view to identifying areas for future work in collaboration with UNCITRAL. We hope that our efforts through iGLIP on ODR could contribute to the international development and usage of LawTech, which will, at the same time, strengthen the position of Hong Kong as a leading international dispute resolution centre.

VI. ICCA Congress in Hong Kong

43. Hong Kong successfully won the bid in 2018 to host the

¹⁸ See the notice published by the Law Society on its website (https://www.hklawsoc.org.hk/pub_e/popup/20201231/20210317_en.pdf)

International Council for Commercial Arbitration (“ICCA”) 2022 Congress. Renowned for stimulating in-depth discussion and providing new insights on matters related to international arbitration, the ICCA Congress is the largest conference devoted to international arbitration. It is held biennially and each Congress attracts a large number of participants from across the globe and makes significant contributions to the development of dispute resolution theory and practice. The Government provides sponsorship to HKIAC to facilitate its bidding process for hosting the ICCA Congress in Hong Kong¹⁹ and the actual holding of the ICCA Congress in Hong Kong²⁰.

44. The ICCA Congress originally scheduled for 10 to 13 May 2020 in Edinburgh, United Kingdom has been tentatively postponed to 26 to 29 September 2021 due to the COVID-19 pandemic. In view of the postponement of the ICCA Edinburgh Congress, the ICCA Hong Kong Congress is now tentatively re-scheduled to be held on 7-10 May 2023.

45. To make it clear that the ICCA Hong Kong Congress is not just an event organised by HKIAC but a Hong Kong event, the Government has specified, as one of its conditions for sponsorship, in its sponsorship letter to HKIAC that HKIAC should organise the event involving representatives from the legal and arbitration professions.

46. Upon the request of the Government, HKIAC has formed a Host Committee the primary responsibility of which is to work with the ICCA Governing Board and the ICCA Programme Committee to ensure the efficient planning and success of ICCA Hong Kong Congress.²¹ HKIAC has also established four standing committees with specific areas of focus²².

47. So far, the Advisory Committee held its first meeting on 22 November 2018 during which the venues for the ICCA Congress, the Governing Board dinner, the Opening Ceremony, the Opening Reception

¹⁹ The Government has provided a maximum financial contribution of a total sum of HK\$295,000 to HKIAC to facilitate its bidding process for hosting the ICCA Congress in Hong Kong.

²⁰ The Government has agreed to provide a maximum financial contribution of a total sum of HK\$6,000,000 to HKIAC towards the holding of the ICCA Congress in Hong Kong.

²¹ The Host Committee is chaired by Mr Neil Kaplan QC.

²² The Standing Committees include the Finance & Administration Committee, the Marketing Committee, the Social Committee and the Hong Kong Advisory Committee.

and the Gala Dinner as well as the promotional activities leading to ICCA Hong Kong Congress were explored. The Marketing Committee held three meetings in June, September and November 2019 during which the marketing strategy, the making of the promotional video and the presentation of the ICCA Hong Kong Congress by HKIAC at the closing ceremony of the ICCA Edinburgh Congress were discussed. In view of the COVID-19 pandemic, the Host Committee convened a telephone conference in March 2020 to discuss the possible postponement of the ICCA Hong Kong Congress from May 2022 to 2023 in light of the postponement of the ICCA Edinburgh Congress to February 2021 (which has now been rescheduled to 26-29 September 2021).

48. HKIAC informed DoJ that the ICCA Executive Committee has supported a postponement of the ICCA Hong Kong Congress to 2023. HKIAC has secured booking of venue at the Hong Kong Convention and Exhibition Centre to host the event on 7-10 May 2023 and is currently exploring the venue for hosting the Gala dinner.

49. According to the latest information from the ICCA 2021 Organising Team, a final decision will be made by 25 June 2021 whether the ICCA Edinburgh Congress will proceed in September 2021 as scheduled.

ADVICE SOUGHT

50. We invite Members' comments on the measures as outlined above. Any other suggestions on how to further promote Hong Kong's arbitration services and enhance Hong Kong's status as an international legal hub for legal, deal-making and dispute resolution services are also welcomed.

Department of Justice
May 2021