

Enforcement of Arbitral Awards : Asia at the Millennium (English only)

The following is the full text of the speech delivered by the Hon Chief Justice Andrew Kwok Nang Li today at the 3rd IBA International Arbitration Day

Chairman, Ladies and Gentlemen,

I am honoured to be invited to give this address at the opening of this Conference. For those who have come from outside Hong Kong, I warmly welcome you to Hong Kong and hope that you have an enjoyable stay.

This is the Third IBA International Arbitration Day. The Conference has been organised by the Arbitration and ADR Committee of the IBA Section on Business Law in association with a number of Asian bodies, including the Hong Kong International Arbitration Centre. The Conference focuses in particular on the enforcement of arbitral awards in Asia. Hong Kong is privileged to have been chosen as the venue for this important Conference. The distinguished speakers and participants come from a variety of jurisdictions and would, I am sure, have a great deal to contribute to the proceedings.

The title of the Conference refers to Asia at the Millennium. As we stand at this exciting time at the threshold of the new millennium and ask ourselves the question: what does the future hold, what challenges do we face, one thing is certain. The new millennium will bring rapid changes in all spheres of society. Above all, the continuing advances in science and technology will have a far reaching impact in all areas of human endeavour. This follows the trend set in the last few decades of the last century. But the pace of change is likely to accelerate.

The 21st century has been hailed as the Asian century. Many have predicted and continue to predict in spite of recent setbacks that by as early as 2020, Asia will account for a very major slice of the world's economy. This will enhance substantially Asia's economic power and its influence in world affairs.

Whether this optimistic scenario will come to pass, only time will tell. Whether it does or not, there is little doubt that economic development will continue in Asia at a rapid pace. Our societies will be more affluent and better educated. And our communities will have greater and rising expectations, whether they be of institutions of government or of providers of services in the private sector such as arbitration services.

It is in this context, the context of greater and rising community expectations, that jurisdictions which aspire to be or wish to maintain and enhance their position as arbitration centres have to face the challenges in the new millennium.

In facing the new challenges, our jurisdictions would have to ensure that our arbitral laws provide appropriate support to arbitration. It is important to keep these laws under review

to ensure that they keep pace with modern developments and best practices. In Hong Kong, I am glad to see that the arbitration community is always at the forefront in suggesting reforms to the law. I know that the Committee on Hong Kong Arbitration Law is at present active in considering possible amendments to Hong Kong arbitration laws.

In particular, arbitration laws should provide for the effective enforcement of arbitral awards, both awards made in one's jurisdiction and also awards made elsewhere. In this connection, I welcome the conclusion in June 1999 of the "Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region". This was necessary as the New York Convention ceased to be applicable following the resumption of the exercise of sovereignty on 1 July 1997. The Arbitration (Amendment) Ordinance 2000 which provides the statutory underpinning in Hong Kong to the new arrangement was enacted by the Legislative Council on 5 January 2000 and came into effect on 1 February 2000. We can now look forward to effective mutual enforcement of arbitral awards between Hong Kong and the rest of China.

Apart from a sound legal framework giving appropriate and effective support, the various jurisdictions would need to ensure that they have high quality arbitrators and practitioners. We need to pay attention to continuing education and training and we must maintain high professional and ethical standards. In Hong Kong, we are fortunate to have various bodies, such as the Hong Kong International Arbitration Centre, the Hong Kong Institute of Arbitrators and the East Asia Branch of the Chartered Institute of Arbitrators which are dedicated to and work hard for these objective.

Arbitration is of course a service industry. Not only must one provide a good service, one needs to do so at reasonable cost. Any jurisdiction which allows costs to escalate will find that it is pricing itself out of the market.

The various arbitration centres in Asia are of course in competition with each other. But with rapid economic development in Asia, the cake is an expanding one. We can share and learn from each other's experience so that we can improve ourselves. Competition has the undoubted effect of improving standards and quality generally to the benefit of all concerned.

Ladies and gentlemen, in welcoming you, I must not overstay my welcome. Thank you for listening and I wish you all a rewarding and successful conference.

End/Friday, February 18, 2000

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