

Speech by SJ at opening of ICC International Commercial Mediation Competition – Hong Kong 2019/20 (English only)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at the opening of the ICC International Commercial Mediation Competition – Hong Kong 2019/20 today (November 11):

The Honourable Mr Justice Coleman, Mr J P Lee, Mr Ronald Sum, ladies and gentlemen,

Good evening. Welcome to the ICC International Commercial Mediation Competition – Hong Kong 2019/20. May I begin by expressing my sincere gratitude to the International Chamber of Commerce – Hong Kong (ICC-HK) Organising Committee of the Competition, professional mediators, adjudicators, sponsors, supporting organisations, volunteers and many others who have contributed their valuable time, efforts and support to make this Competition possible despite all the obstacles in light of the pandemic.

The ICC International Commercial Mediation Competition – Hong Kong

I wish to thank the ICC-HK for bringing the ICC International Commercial Mediation Competition to Hong Kong in 2018 introducing an Asian round to this competition. This competition is widely recognised as the world's leading mediation competition for university students. Each year, teams from all over the world gather at the ICC in Paris to compete for the top place. The winning team in the Asian Round in 2018, the City University of Hong Kong, participated in the 14th ICC Mediation Competition held in Paris in February 2019.

Notwithstanding the pandemic, this year, the ICC-HK competition 2019/20 is taking place virtually, participants are connected from all corners of the world through the online platform. I am encouraged to see the enthusiasm of the participating universities – this year's competition has gathered together a diverse mix of participants, comprising 20 teams of university students from nine jurisdictions.

Mediation as a growing trend

For many years, litigation seemed to be the mainstream choice in resolving commercial disputes. Parties go to court for a judgment, resulting in either winning or losing the case. It could take a long time to go through all the court proceedings including appellate courts, not to mention the possible substantial costs involved. Gradually, people turn to look for more efficient and cost-effective alternative dispute resolution such as

mediation. Mediation provides a neutral and confidential arena where parties can communicate candidly. The flexibility in the mediation procedures and the tailor-made remedies allow parties to have a greater autonomy in the outcome, and often when the parties reached a settlement agreement, they are more willing to comply. When parties are given the chance to understand the interests of each other, even if a settlement may not be reached, the differences of the parties are narrowed down and the valuable business relationship could be preserved. We are therefore seeing a rising trend in the use of mediation in cross-border commercial disputes, investor-state dispute settlement, and other sectoral disputes such as international sports disputes.

Role of mediation advocate

To have a successful mediation, the mediator is no doubt a key, but each of the participating parties also has a role to play. Mediation representatives, often the parties' legal representatives, have an important role to play as the mediation advocate. The legal practitioner participating in the mediation would have to understand that mediation advocacy involves a shift from an adversarial mode to a collaborative approach with a focus on the interests of both parties in mind. This is very much what the present competition is about – the honing of advocacy skills in a mediation setting with a view to developing an understanding of mediation and cultivating a mediate-first culture amongst university students who may be joining the profession as a new generation.

Conclusion

It is our hope that participants will emerge from the competition with an enhanced understanding of how mediation can be effectively applied to resolve international commercial disputes. We are confident that such skills in mediation settings will not only be relevant, but also valuable, in their future career and business relationships. On this note, I wish all participants all the best. I hope all of you will enjoy this valuable and fun learning experience. Thank you very much.