Dispute Resolution – The Key to Efficient Settlement of Business Disputes

Purpose: Information
Submitted by: Hong Kong, China
APEC Strengthening Economic and Legal Infrastructure Workshop on

Dispute resolution –
the key to efficient settlement of business disputes
Lima, Peru
26 February 2016

Organized by the Department of Justice of Hong Kong, China
in collaboration with
the UNCITRAL Secretariat

CONCLUSIONS AND RECOMMENDATIONS

The Department of Justice of Hong Kong, China, in collaboration with the United Nations Commission on International Trade Law (“UNCITRAL”), organized under the auspices of the APEC Economic Committee and its Friends of the Chair on Strengthening Economic and Infrastructure (“SELI”) a one-day capacity-building workshop on “Dispute resolution – the key to efficient settlement of business disputes” (“the Workshop”) on 26 February, 2016, in Lima, Peru.

The Workshop gathered over 60 delegates from APEC member economies and international organizations. It aimed to: (1) encourage the use of certain international law instruments and to increase knowledge in some practical issues on dispute resolution as a means of efficient settlement of business disputes; (2) promote awareness of and to share experience among APEC economies in the application and uniform interpretation of certain international law instruments relating to dispute resolution, including the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (“the New York Convention”); the UNCITRAL Model Law on International Commercial Arbitration (1985, amended in 2006) (“the UNCITRAL Model Law on Arbitration”); and the UNCITRAL Model Law on International Commercial Conciliation (2002) (“the UNCITRAL Model Law on Conciliation”) and (3) contribute to the development of a network among participants of member economies with a view to facilitating long-term information and experience sharing.

THE WORKSHOP:

Having regard to the 2014 APEC Joint Ministerial Statement “to build awareness of private international law instruments to facilitate cross-border trade and investment, enhance ease of doing business, and foster effective enforcement of contracts and efficient settlement of business disputes”; and

Building on APEC’s initiative on structural reform as set out in the Joint Statement of the 2015 Structural Reform Ministerial Meeting issued on 8 September 2015 that “the development of international legal instruments and their adoption will create a more conducive climate for cross-border trade and investment, thus facilitating economic
growth” and that the use of those instruments “provides greater legal certainty in cross border transactions, harmonization of finance and dispute resolution systems, closer economic and legal integration among cooperating economies, and the simplification of procedures involved in international transactions”;

**CONCLUDED AND RECOMMENDED**

1. The delegates and the participants acknowledged that arbitration is a flexible method of dispute resolution which provides a cost and time effective, fair and final means of settlement of business disputes. The UNCITRAL Model Law on Arbitration, which has been adopted in most of the APEC economies, provides a predictable and effective legal framework, which will greatly benefit the international business community and foster international trade and investment.

2. The delegates and participants welcomed the sharing of experience by Hong Kong, China on the enactment of the Arbitration Ordinance which is based on the 2006 version of the UNCITRAL Model Law on Arbitration and how it has enhanced ease of doing business and facilitated the efficient settlement of international trade disputes.

3. The delegates and participants recognized that choosing the seat of arbitration within a legal system that operates with neutrality and impartiality will greatly benefit the efficient settlement of business disputes, and recognized the importance of the New York Convention in providing a simple and predictable legal framework for recognizing arbitration agreements and enforcing arbitral awards in over 150 economies.

4. The delegates and participants noted that the UNCITRAL Model Law on Conciliation adopted in 2002 provides a comprehensive set of procedural rules in respect of conciliation to ensure greater predictability and certainty in facilitating international commercial conciliation.

5. The delegates and participants recognized the value of other forms of dispute resolution such as mediation for efficient resolution of international business disputes, as well as online dispute resolution (ODR) through the use of digital technology to facilitate speedy dispute resolution in cross-border trade, particularly for micro, small and medium enterprises with limited resources and noted a proposal for building an ODR platform for APEC economies.


7. The delegates and participants welcomed the sharing of the role and experience of the Permanent Court of Arbitration in investment arbitration and of the emerging importance of this area in the Asia-Pacific.

8. The delegates and participants appreciated the valuable assistance and support provided by the UNCITRAL Secretariat, and warmly welcomed activities similar to this Workshop in the future as well as further opportunities for enhanced collaboration between APEC and international organizations which participated in the Workshop.