

2016/SOM1/EC/WKSP1/003 Session 2

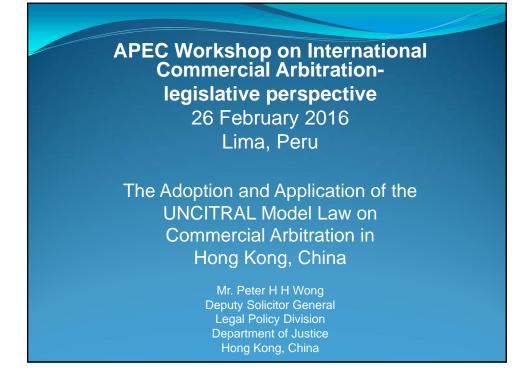
The Adoption and Application of the UNCITRAL Model Law on International Commercial Arbitration in Hong Kong, China

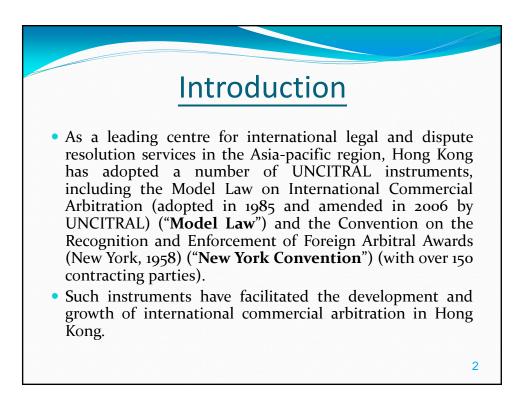
Submitted by: Hong Kong, China



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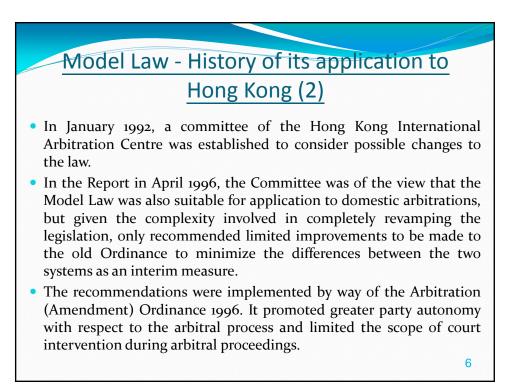


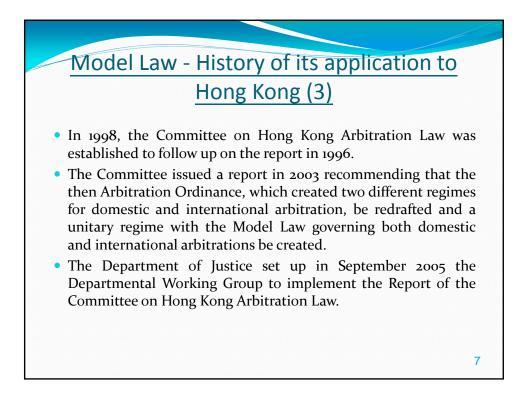


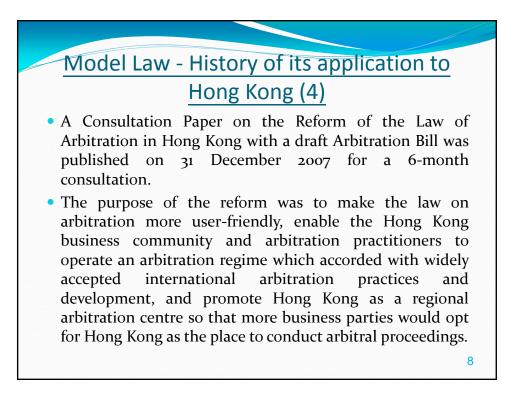
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UNCITRAL Model Law on International Commercial Arbitration - History of its application to Hong Kong (1)

- The old Arbitration Ordinance (Cap 341) was first enacted in 1963.
- Law Reform Commission of Hong Kong recommended in 1987 that the Model Law should replace existing Hong Kong law on international arbitration.
- The recommendation was implemented and the Model Law was applied with minor modifications to international arbitration in Hong Kong since April 1990 (while domestic arbitration was left intact).









• The Arbitration Bill, which adopted the structure of the Model Law (as amended in 2006 by UNCITRAL) as its framework, was introduced into the Legislative Council in June 2009. The new Arbitration Ordinance (Cap. 609) was enacted on 10 November 2010 and came into effect on 1 June 2011.

Model Law – Some key features adopted in the new Arbitration Ordinance (1)

- With the enactment of the new Arbitration Ordinance (Cap. 609) ("the **new Ordinance**"), Hong Kong now adopts a unitary regime of arbitration on the basis of the Model Law for all types of arbitration, thereby abolishing the distinction between domestic and international arbitrations.
- The new Ordinance gives legal effect to those provisions of the Model Law that are to apply in Hong Kong. Those provisions, with such modifications or supplements where necessary, are arranged in the same order as the Model Law.

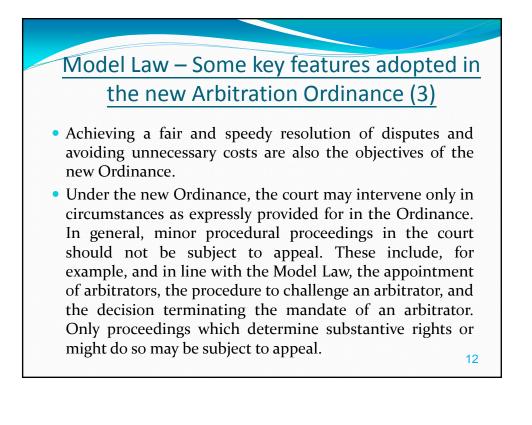
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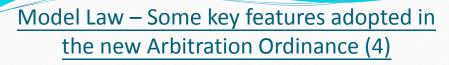
Model Law – Some key features adopted in the new Arbitration Ordinance (2)

- The new Ordinance makes our arbitration law clearer, more certain, and more easily accessible to arbitration users and practitioners from around the world. It is selfcontained so that it is easier for users to find all the relevant provisions in one place.
- The new Ordinance reinforces the advantages of arbitration, including respect for parties' autonomy as well as saving in time and costs for parties opting to resolve their disputes by arbitration.

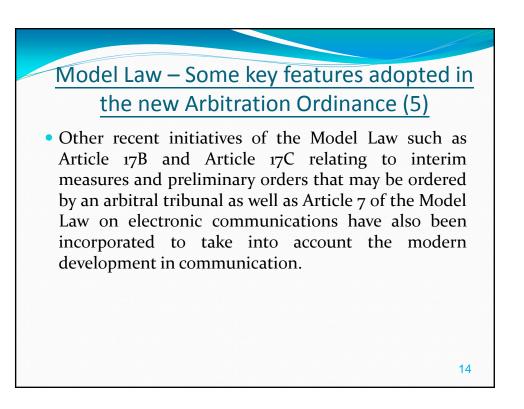
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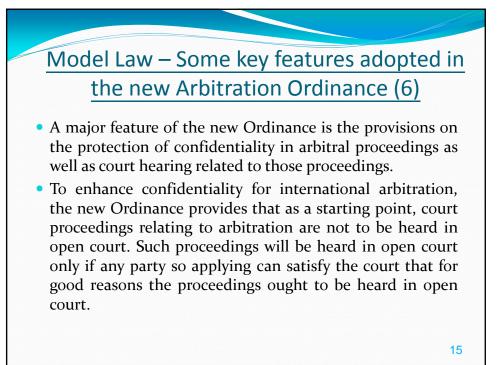


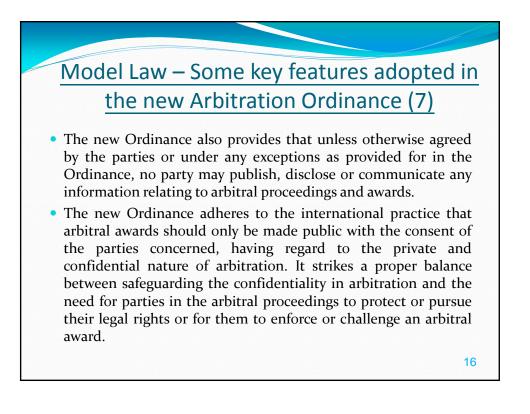
13



- Article 19 of the Model Law that provides for procedural autonomy by granting the parties maximum freedom in the choice of their procedural rule has also been fully incorporated.
- In practice, parties may agree to adopt a pre-existing set of arbitral rules, such as the UNCITRAL Arbitration Rules, the HKIAC Administered Arbitration Rules, the ICC Arbitration Rules or the CIETAC Arbitration Rules, which rules will determine many aspects of procedures.







17

Conclusion

- The adoption and implementation of the Model Law have enabled our arbitration legislation to keep up with widelyaccepted international arbitration practices and development.
- The enactment of the new Arbitration Ordinance (Cap. 609), together with the enforceability of Hong Kong arbitral awards worldwide under the New York Convention have enabled us to provide world-class arbitration services to both local and international business parties choosing Hong Kong as the seat of arbitration, thereby enabling us to emerge as a leading international arbitration centre in the region.

