



**Asia-Pacific  
Economic Cooperation**

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**2016/SOM1/EC/WKSP1/005**

Session 4

## **Overview of Hong Kong Arbitration**

Submitted by: Hong Kong, China



**Workshop on Dispute Resolution  
Lima, Peru  
26 February 2016**

# Overview of Hong Kong Arbitration

## ADVANTAGES AND OPPORTUNITIES

**Anthony Houghton SC, on behalf of the Hong Kong Bar Association**  
[www.hkba.org/](http://www.hkba.org/)

## The Hong Kong Legal System

**A common law system rooted in English law**

An adversarial system of procedure in the courts

**Hong Kong's legal system differs from that in PRC because of the Basic Law**

Therefore an entirely domestic court system.

## The legal profession in Hong Kong

### Barristers and Solicitors

- **Barristers**
  - Specialists in advocacy and advisory work
  - the Hong Kong Bar Association
  - Approximately 1,100 practising barristers
- **Solicitors**
  - Approximately 7,500 solicitors.
  - The Law Society is the professional association
  - Also over 1,000 “foreign lawyers” in Hong Kong

## Three Key Features of HK Arbitration

Dispute resolution using a tribunal of your choice.

Outside the court system, but supported by the courts.

A legally binding decision enforceable internationally.

### Forms of Arbitration

○

**Two main Types**

- Ad hoc (non-administered) Arbitration
- Institutional / Administered Arbitration

### Forms of Arbitration

○

**Adversarial or Inquisitorial?**

- Hong Kong Arbitration may follow either model.
- Although “ad hoc” is well known in Hong Kong this is not permitted in (eg) China.

## Does HK arbitration resemble court litigation?

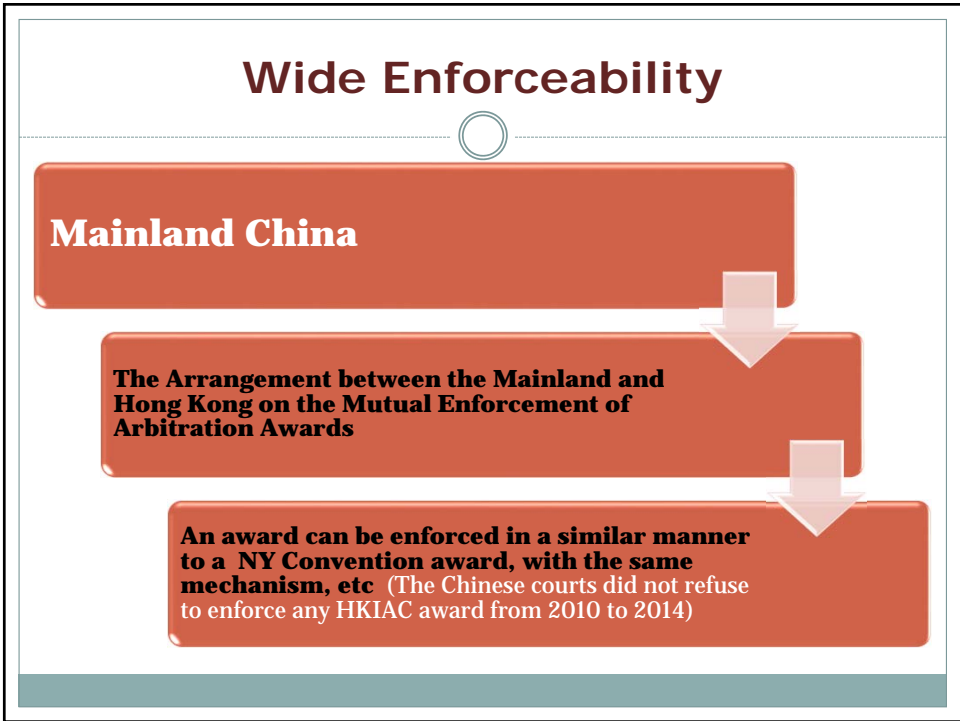
WHAT ARE THE KEY “ADDED VALUE” ELEMENTS IN ARBITRATION IN HONG KONG?

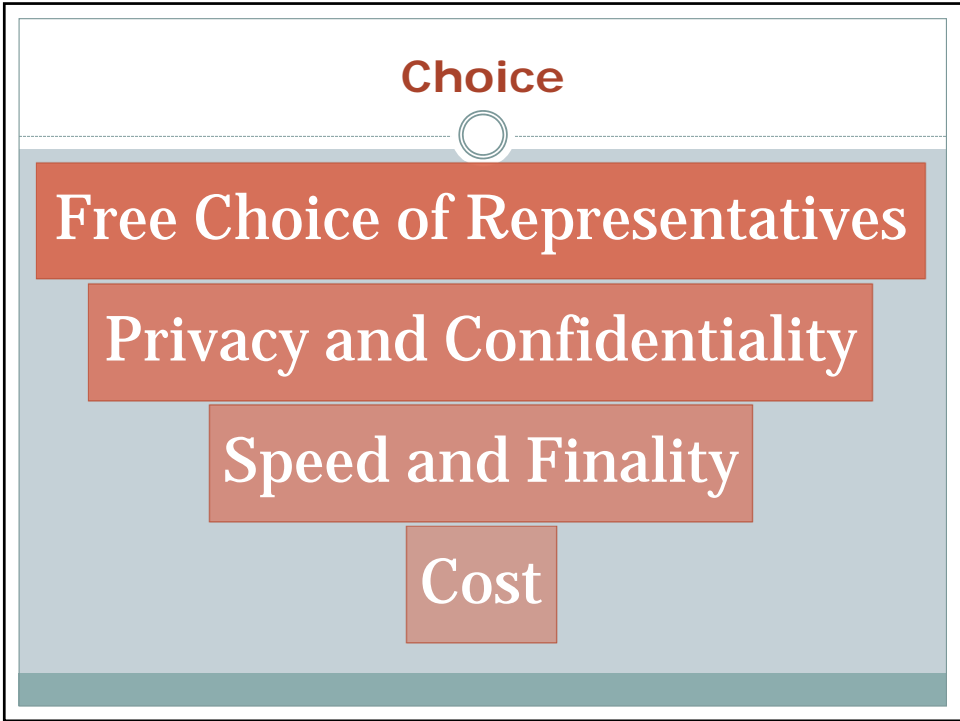
### Flexibility

Qualifications /  
Expertise of the  
Tribunal

Choice of a  
Neutral Forum

Flexibility of  
Procedure





## The Approach of the Courts

Supportive of  
Party  
Autonomy:

Party choice to  
arbitrate will be  
enforced

Supportive of  
the Authority  
of the Tribunal:

Matters of  
procedure and  
jurisdiction are  
Tribunal decisions

## Court support in enforcement of awards.

A “bias” in favour of enforcement of Awards because they are **final**. Enforcement can be refused **only** on limited grounds, eg:

- No Valid Arbitration Agreement
- Violation of Due Process
- Arbitral Tribunal Exceeding its Authority
- Award Not Binding or Set Aside



## Why Hong Kong Arbitration?

A neutral and accessible forum

A wide pool of experienced legal professionals

Open to non-local arbitrators and representatives

A non-interventionist court system

Ready enforceability of Awards

## Overview of Hong Kong Arbitration

**THANK  
YOU.**

**Anthony Houghton SC, on behalf of the Hong Kong Bar Association**