

## Report on Special Committee of Greater China Affairs 2014

1. The activities of the Committee were against the backdrop of the following events in Mainland :

- (1) 41% increase in 4 years of foreign related cases in people's courts<sup>1</sup>, with China now the fastest-growing economy, undergoing what has been described as a second industrial revolution<sup>2</sup>.
- (2) Moving more quickly, in particular since the 4<sup>th</sup> Plenum, in judicial reform, with publication on the internet of judgments<sup>3</sup> and broadcasting of court hearings<sup>4</sup>.
- (3) Continual increase in court cases<sup>5</sup>, against the anti-graft campaign, which resulted in almost daily reports of misconduct of officials<sup>6</sup>.

2. What transpired at the ground level are developments which may serve as an example for the nation in future litigation and dispute resolution, and notably for the legal profession :

- (1) Over one-third of the panel members in the Shenzhen International Arbitration Commission are foreigners, with the first arbitral award using Hong Kong law being published. Due to competition for work, similar opening up are witnessed amongst arbitral commissions may be seen elsewhere in Guangdong Province, Shanghai or even at the CITEAC level.

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<sup>1</sup>203 intermediate and 204 basic level courts have jurisdiction over first instance foreign-related cases. Between 2010-end June 2014, there were 287,262 first and second instance cases foreign-related maritime and commercial cases, an increase of 41% over the previous period. In 2013, there were 5,364 foreign related commercial cases, 15,000 Hong Kong and Macao related cases, and 11,000 maritime cases. Notable cases included : Interdigital vs. Huawei; Invista Sarl v. Zhejiang Yisheng Petrochemical (Invista Sarl is a Koch Industries subsidiary) Maersk Shipping v. Xiamen Penavico (source : <http://supremepeoplescourtmonitor.com/> 30 November 2014, [http://news.xinhuanet.com/politics/2014-03/17/c\\_119797489.htm](http://news.xinhuanet.com/politics/2014-03/17/c_119797489.htm))

<sup>2</sup> Source from BBC News : <http://www.bbc.com/news/world-asia-pacific-13017877>

<sup>3</sup> Up to March 2013, 3,858 judgments of the Supreme People's Court, 1,646,000 judgments of other court were published on the internet.

([http://news.xinhuanet.com/politics/2014-03/17/c\\_119797489\\_2.htm](http://news.xinhuanet.com/politics/2014-03/17/c_119797489_2.htm))

<sup>4</sup> 45,000 hearings were published or broadcast on the internet up to March 2013.

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<sup>5</sup> For the year up to March 2013, 9,716 cases (or + 3.2%) at the Supreme People's Court, and 14,716,000 (or +1.6%) cases at the local people's courts at various levels were completed.

<sup>6</sup> According to the Report on the Work of the Supreme People's Court, during 2013, there were 29,000 cases involving embezzlement, bribery and dereliction of duty, and 31,000 being convicted.

- (2) A similar form to the concept of doctrine of precedent, “Conference Summaries”<sup>7</sup> to guide the lower courts on the agreed upon approach to new or contentious issues.
  - (3) Establishment of lawyers colleges at various Universities, such as the East China University of Political Science and Law (previously “St. John University”) in Shanghai, for training of law students to be professional lawyers.
3. During the year, the Bar had an enhanced profile in the Mainland, including :
- (1) There were some 20 barristers participating in the teaching of common law, including concepts such as the Rule of Law, at the Peking University at both the LLM and LLB courses, marking the 4<sup>th</sup> year of the programme.
  - (2) There were monthly publication of Hong Kong law articles at the Shanghai Lawyer, the monthly journal of the Shanghai Bar Association. Those articles were now published in a book entitled 《香港大律師談民商法》 (Hong Kong barristers on civil and commercial law), first of its kind for sale in Hong Kong book stores.
  - (3) Two mock arbitration demonstrations were conducted at Qingdao Legal Services Forum (organised by the Department of Justice) and Shanghai (in conjunction with the Shanghai Bar Association), with about 20 barristers participating to help out.
4. A list of the other events is at the Annex.
5. I have to personally thank the leadership of the Bar Council, including the Chairman Mr Paul Shieh SC, the Vice Chairman Mr Paul Lam SC, and also Ms Winnie Tam SC who had donated so much of their valuable time and energy to contribute to the success of the work of the Committee. Without the support of the Bar Council, the Bar cannot be better known in the legal circle in the Mainland.

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<sup>7</sup> 14 were published in 2013. ([http://news.xinhuanet.com/politics/2014-03/17/c\\_119797489\\_2.htm](http://news.xinhuanet.com/politics/2014-03/17/c_119797489_2.htm))

6. My heartfelt and sincere thanks cannot leave, but have to go also to those who participated in our activities, in particular those Young Barristers, most of whom are bilingually very competent. They had really paid so much time and effort, sometimes even sacrificing their briefs, for the building up of image of the Bar. Our trips to the Mainland were invariably packed with meetings, presentations and meals at slightly different hours when compared with Hong Kong. They can be quite testing although good training for both the body and soul. Sometimes I would like to think this is a good example of generosity the profession can claim in our service to the Mainland. I believe and I do sincerely hope that their efforts will not go in vain.

7. Last but not least, I would like to thank Ms Ava Wong of the Bar Secretariat who had donated her full attention to the planning and logistic matters, and communicating on a daily basis for the Committee with our counterparts.

Andrew Mak  
Chairman  
Special Committee on Greater China Affairs

8 December 2014

### **Highlights of Events 2014**

- 13/1 Visit by the President of All China Lawyers Association visited the Bar
- 23/1 Visit by a 17-person delegation of Tsinghua University LLM students of International Arbitration and ADR
- 24/1 Visit by Mr Wang Sheng-ming, Vice-chairperson of the Internal and Judicial Affairs Committee of the National People's Congress, Mainland China
- 24/1 Visit by Ms Tsai Piyu, Administrative Deputy-minister, Ms Chen Wenchi, Director-General, Ms Tai Tungli, Head of Prosecutor of the Ministry of Justice of Taiwan ROC
- 21/2 Visit by Mr Chen Xu, Chief Procurator, Shanghai People's Procuratorate,
- 15/3-11/5 Conducted common law lecture for the LLB and LLB students of the PekingUniversity
- 18/3 Visit by a delegation of 40 Chinese Senior Judges and Prosecutors attending the Training Program organized by the Chinese University of Hong Kong.
- 16/4 A 5-person delegation of the Lawyer' School of South China Normal University visited the Bar
- 13-15/5 Participated Roadshow trips to Guangdong organized by DOJ to promote Legal Forum
- 23/5 A 6-person delegation led by Mr. Du Chun, Director of the Department of Guidance of the Work of Lawyers and Public Notaries of the Ministry of Justice PRC visited the Bar
- 31/5-1/6 Organized moot court for PekingU LLM Students, and Attended the Scholarship Award Ceremony of Common Law LLM Course
- 5/6 Visit by 32 Chinese Senior Judges attending the 9<sup>th</sup> Advanced Program for Chinese Senior Judges organized by the City University of Hong Kong

- 9/6 Visit by 15 Mainland officers attending Training Scheme in Common Law organized by the Chinese University of Hong Kong sponsored by the Department of Justice
- 19/6 A 5-person delegation of the Lawyers' School of East China University of Political Science and Law (ECUPL) visited the Bar
- 27/6 Ceremony on Signing the Memorandum of Understanding with the All China Lawyers Association
- 6-19/7 18 PekingU LLM/LLB Students (Scholarship Awardees) came to HK for internship
- 9/7 Visit by 13 outstanding law students of the Shantou University
- 14/7 Visit by 50 university students of HK and the Mainland attending training program organized by Legal Education Trust Fund
- 22/7 Attended "Liberalisation of Trade and Services between HK and the Mainland Senior Officials Meeting" held in Hong Kong to share the expectations of the Bar profession
- 16/9 Co-organised Legal Forum with the Department of Justice of Hong Kong SAR in Qingdao, Some members participated as keynote speakers in the Forum
- 18/9 Co-organised a mock arbitration with the Shanghai Bar Association in Shanghai to share views on practical issues and experience in international arbitration
- 18/9 Young barristers visited King & Wood Mallesons and Allbright Law Offices
- 18/9 Visited Lawyers College of East China University of Political Science and Law in Shanghai
- 16/10 A 7-person delegation of the Tianjin Lawyers' Association, led by their President, Mr Han Gang, visited the Bar
- 16/10 Mr Zheng Shanhe, Chief of Shanghai Justice Bureau visited the Bar
- 27/11 Mr Gan Zangchun, Deputy Director of the Legislative Affairs Office of China's State Council, visited the Bar

- 15/12 Renewed the Memorandum of Understanding with the Shanghai Bar Association
- 17/12 Visit by 19 Mainland officials attending Training Scheme in Common Law organized by the School of Continuing and Professional Studies of the Chinese University of Hong Kong sponsored by the Department of Justice.