

Arbitration (Amendment) Bill 2014

Comments of the Hong Kong Bar Association

Preamble

1. The Hong Kong Bar Association (“the HKBA”) is invited to comment on the Consultation Paper on the Arbitration (Amendment) Bill 2014 (“the Consultation Paper”).
2. The HKBA notes that there have been concern expressed over the legal uncertainties relating to the application of the opt-in provisions of Schedule 2 of the Arbitration Ordinance (Cap. 609) (“the Ordinance”) to parties to a domestic arbitration agreement in cases where they have specified the number of arbitrators of the arbitral tribunal.

General Views

3. The HKBA welcomes and supports the introduction of the proposed amendments to the Ordinance.

Specific Comments

4. In relation to the proposed amendments in para. 16 of the Consultation Paper, we agree with the 1st & 2nd Proposals of the Hong Kong International Arbitration Centre (“the HKIAC”) and see that they will enhance the legal certainties in cases where the parties have exercised the option to choose the number of arbitrators under a domestic arbitration agreement.
5. The HKBA sees that it may also encourage more parties to commence arbitrations in Hong Kong by removing such legal uncertainties and putting the matters beyond doubt.

6. In relation to para. 19 of the Consultation Paper, the HKBA notes that Section 1 of Schedule 3 of the Ordinance provides a continuity measure for arbitral proceedings commenced before the enactment of the Ordinance that are not to be affected by the introduction of the Ordinance. The HKBA supports the proposal for adopting the same approach in the Arbitration (Amendment) Bill 2014.

Hong Kong Bar Association
8 July 2014