Legal Challenges

The International Magazine of Law & Economics

التحديات القانونية

مجلة قانونية اقتصادية دولية

Modern vision to transfer legal culture cross borders

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CONTENTS

Female Lawyer from Franch:
Christiane Féral-Schuhl

Female Lawyer from England:
Christina Blacklaws

Dr. Elke Umbeck
Vice president of the Chinese European Arbitration Association (CEAA)

Female Lawyer From Germany:
Dr. Dorothee Ruckteschler

Lawyer :

Wayne Wang

Equity Partner - Law Firm

By: Dr. Jeffry Lo

Legal Counsel of CAA International Arbitration Centre (CAAI)/ Chinese Arbitration Association, Taipei (CAA)

Lawyer from Kuwait:

Areej Hamadah

Female Lawyer from Philipin:

Miriam Rose Ivan L. Pereira

Female Lawyer from Brazil:

Cristina Salvador

Female Lawyer from India:

Christiane Féral-Schuhl

Lawyer from Singapore:

Max Ng

Areej Abdel Rahman Hamadah

Founder of the Legal Challenges Group
Law firm & International Magazine of Law & Economic

Editor-in-Chief
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Kuwaiti Lawyer with 20 years of experience in the field of commercial, civil, administrative and labor law.

Has many voluntary social activities on record. She seeks to break the glass ceiling in the male-dominated legal profession and enhance the legal role of women by changing the culture of male society.

She was able to win many court rulings as a first precedent before Kuwaiti courts. She aspires to work in international trade, cross-border investment and international contracts.

Provided many solutions as a voluntary work by preparing several studies on economic laws, in addition to many initiatives that contributed to development and progress. For example, the initiative to establish a specialized stock exchange for small and medium enterprises as well as the initiative "Educate your Money", which aims to change the societal behavior pattern and transform it from a consumer into a productive society.

She is a member in several international

organizations, for example, the Asia-Pacific Commercial Lawyers Center, the China-European Arbitration Center. She is a member of the Kuwait International Arbitration Center, a member of the International Bar Association, and a member of the International Bar Association. In addition, she is a member of the Kuwait Lawyers' Association, the Journalists Association, a member of the Women's Cultural and Social Society, and the President of the Economic Committee of the Kuwait Lawyers Association for two years.

She worked as a lawyer for Ahli United Bank for 13 years, and received high appreciation from the leadership of the bank where she was selected as the ideal employee in the bank and was honored several times.

She moved to work for the government sector for a full year, but her passion for the legal profession compelled her move to the legal profession. She received her legal training in four law offices for four years. In 2017, she established her own office under the name of Legal Challenges Group. In 2019, the Legal Challenges Magazine was established to be part of the activity of the Law Office, an international magazine specializing in the legal and economic field.

She has participated as a speaker in many conferences and seminars in Kuwait. In addition to participating as a spokesperson outside Kuwait with the Asian Commercial Lawyers Organization in Singapore, she presided over the meeting of the Commercial Lawyers Committee at the 2019 Annual Meeting as well as a speaker at the International Bar Association Investment Conference organized by the International Bar Association in Switzerland.

Participated in the roundtable meeting in India organized by the English and Wales Bar Association in collaboration with the United Nations to participate in the development of strategic plans to promote equal employment opportunities among women as legal leaders equally with men in legal profession.

She was honored by the Jahra Governorate in Kuwait with a group of Kuwaiti women lawyers as the first honoring of legal women in the history of the State of Kuwait.

She has published two books to help spread legal awareness in the SME sector.

She has co-authored several international reports, for example the Kuwait Investment Report 2020, which was prepared by the World Bank.

She has also been involved with the International Financial and Legal Network in China's 2019 Foreign Investment Report.

She participated in many TV and press meetings inside and outside Kuwait. She has been active in social media where she has adopted many societal and humanitarian issues, most importantly defending women's rights and renouncing violence against women.

Legal Challenges

is an international online magazine specialized in the law & economic field. It is launched from the State of Kuwait and it is the first of its kind in the Kuwaiti media market.

The Legal Challenges Magazine was established in 2019 to keep abreast of the developments in the legal and economic sector. It is owned by the Lawyer/ Areej Abdulrahman Hamadah who is the Editor-in-Chief and the founder of Legal challenges groups for law and legal advice.

Legal Challenges is an international magazine published every three months in Arabic and English. It aims to assist readers, lawyers, economists, companies and those who are interested in international trade, cross borders investment, contracts and international arbitration. It is a good resource to remain informed of all latest laws and economic issues worldwide. It offers you everything from action-oriented and implementable insights on the latest deals, cases and international business developments to law & economic analysis and conducting interviews with lawyers, consultants and economists worldwide to help readers to gain an earlier understanding of the international trading market.

Legal Challenges Magazine focuses on investment, banking, oil, real estate, commercial, insurance, sports investment, fashion, trademarks, bankruptcy, restructuring and financing.

Legal Challenges has a modern vision to transfer legal calture cross borders.

Conditions & Controls of Participation in the Legal Challenges Magazine:

1- To be a member in the International Legal Challenges Magazine

2- The participation should have a clear, useful and interesting message to be presented in a logical manner.

3- The participation shall be in the economic or legal economic fields.

4- The participant shall hold full legal responsibility for the information and facts contained in his/her participation.

5- The content of the participation should be free from plagiarism

6- The participation should be presented in both Arabic and English.

7 - The content of the participation should be approved, after reviewing, by the teamwork of International Legal Challenges Magazine

8- The personal data (phone number - address - work address - photo - website - personal social accounts- Certificates) should be presented.

Benefits of membership in the Legal Challenges Magazine:

1- Participation in the International the Legal Challenges Magazine will be through (Essay - Interview - Report – Judgments).

2- Commercial Advertisement.

3- Coverage of legal economic or economic events including (Conference - Seminar – Penal discussions... etc).

4- Investment or commercial transactions.

5- Economic or legal economic news.

Editorial

If your hand is reward short, be thankful

No matter what achievements we attain and open ways to succeed and reach what we dreamt of, we should not overlook who was the reason for our success; who supported us and held our hand to continue on our journey to success and progress. No matter how we express our gratitude to them, the words remain short. In fact, nothing is poorer than a person who isn't thankful to others.

My career life was not an easy journey, nor my path was filled with flowers. It was full of thorns, and I had faced many obstacles, difficulties and impediments. Many others fought against me without a mistake on my part. They closed all doors before my face without a convincing reason. Others claimed my efforts and initiatives for their own in a cheap attitude, while others sought to discredit me and backstab me falsely.

On the other hand, I did not allow any of that to defeat me. My decisive response was to work diligently being a true believer in Allah Almighty support. I'm grateful to Allah and I am very happy today because I am still standing still. Those born at times of storms do not fear windy days. However, if I cannot prevent the birds of burdens from hovering over my head, I'm confident that I can prevent them from nesting within.

Today, I opt to write the editorial of my new project, to thank and deeply appreciate all those who supported me in the midst of my frustration and sadness. I would like to thank everyone who helped me, and offered support and advice. It added to my confidence in what I offer and boosted my will to do what I aspire to. I also thank all those who have endured all such bad words that have been said against me by way of punishment, as they may think being an ambitious woman who adores work and production in a male society that has not given me the opportunity, yet I created it my own. This would not have been easy without my family's support and encouragement. Thank you; you have endured it all with love and compassion.

Thank you Abu Abd Al-Rahman Hamada, my father who I pray that Allah entertains him in his Paradise.

Thanks to my mother Badriya Al-Awwad

Thank you to my beloved husband Ayham Al-Muhaini

Thank you to my brothers Dalia and Abdelaziz Hamada

Thank you to my Father in law Dr. Mohammed Al-Muhaini, and my mother in law Suad Al-Mutawa

Thank you to the family of Anbaa Newspaper

A word of thanks and gratitude is not enough to repay you

I'm really excited for this new beginning, despite of the challenges as we encounter bu little by little, however my difficulties began to disappear.

So for those who choice to stay " thank you "

And for those who choice to go " thank you for all your time you given to me.

Editor-in-Chief

Areej Hamadah

First Female Lawyer in Kuwait

Suad Al Jassem

The destiny has chosen me to be professionally trained and taught by the first female lawyer in Kuwait, the general advisor to Ahli Untied Bank, the late, Suad Al Jassem, May Allah rest her soul in the paradise.

She was an extraordinary woman who has a deep knowledge in the law and ethics. Has was having a special charisma which mixed between strength and kindness; severeness and flexibility; seriousness and joking. She had a very lovely smile. So, I am proud to be under her leadership for 8 years, during which I have learned a lot from her.

Suad Al Jassem graduated from Kuwait University. At the outset of her career, she had worked at Al-Essa and Al-Bader Law Firm. She specialized

in personal status lawsuits and her fellow male lawyers, who were very happy for her existence among them, provided considerable support to her. Therefore, she become the only woman who pleads before Kuwaiti courts at that time.

Later, she moved to work at Al Ahli United Bank (formerly Bank of Kuwait and Middle East). She had been promoted through the legal positions in the bank until she assumed the position of legal department manager; thus, she was the first Kuwaiti legal woman who assumed this position after proving her worth and competences. She managed to lead the legal management team successfully and effectively. She has chaired several meetings of senior bank advisors. In general, she had a considerable opinion in many complex issues in the banking sector. Finally, she took up the position of general advisor at Ahli United Bank, also, she become the first Kuwaiti woman who assumes this position.

She loved Kuwait so much, strongly supported Kuwaiti young men and women and never accepted the saying (Kuwaitis do not like to work).

At the height of her power and gear, she had a blood clot in the heart and during the heart surgery she was infected with a virus resulting in her death.

This woman has a great merit which I will never forget it. Every day, she used to say, “Good morning” for all staff at the legal department. Then, she started her work.

Despite I was not having the enough expertise, she encouraged me so much to experience new and difficult experiences. I was a fresh graduate, but she believed in my professional capabilities and skills. She was always telling me “You reminded me of the beginning of my career. I was having the same passion, work love and activity that I see in you today.”

Out of her outstanding qualities, she was defending fervently of the legal department staff at the bank. She has been supporting us in the conflicts that occur among the employees due to the competitive environment. Thus, she maintained the prestige and strength of the legal department within the bank which has helped to foster greater trust and confidence in us as legal staff in the bank.

Whatever I wrote, I find it is difficult for me to give her the recognition she deserves. However, I will conclude by saying that I have been very blessed because she was my manager at the beginning of my career; I have learned a lot from her. It is a great honor for all of us as Kuwaiti female lawyers to have Suad Al Jassem, the first female lawyer in Kuwait as our role model.

Female Lawyer from Franch:

Christiane Féral-Schuhl

Christiane Féral-Schuhl has been in practice for more than 30 years in the fields of computer law, new technology law, data privacy law and intellectual property law, in which she is a renowned player. In addition, she is a mediator, arbitrator and cyber arbitrator, notably at the WIPO (World Intellectual Property Organisation).

Former president of the Paris Bar, Christiane Féral-Schuhl is now President of the French National Bar Council, the first woman to be elected to the head of the organisation which represents all 68,000 French lawyers. Within the priorities of her mandate, there is notably supporting lawyers in the digital revolution and the defence of equality in the profession and women's rights.

Can you please write a report about your experience in :

- **Women in law leader ship and the challenges & how to overcome challenges ?**
- **You are one of the best lawyers how you can achieve this achievement in a career dominated by men ?**

I have never positioned myself as a woman but yes and exclusively as a lawyer who is passionate about her work.

In my case, and I would not like to generalise, what allowed me to stand out from other lawyers was specialising in fields that were not at all current or even taught – computer law and data privacy. As I only master a subject well when I write about it, I ended up publishing a lot. I gathered my publications in a book which was first published in 1998 and which has since been regularly updated. It is now in its eighth edition and is highly referenced in universities

"I gathered my publications in a book which was first published in 1998 and which has since been regularly updated."

> *It is necessary to stick to the classic rules: working on your files, listening to your clients. Each file is important. Each client requires an attentive ear.*

and in legal services and law firms. Publications and conferences require that you are perfectly up to standard and that you keep updated. I was thus quickly identified as a specialist in the world of digital players. The development in technology did the rest, with the development of e-commerce, telecommunications and the internet. So I had no difficulty in building a base of clientele who were interested in someone who mastered digital concepts and had a pragmatic approach. I never stopped learning with them through issues that were as varied as they were complex. I had the opportunity to intervene in very innovative trials that required a lot of imagination and thinking outside the box. I also diversified my activities by becoming a mediator and even a cyber arbitrator.

Beyond specialising, which helped accelerate my career, it is necessary to stick to the classic rules: working on your files, listening to your clients. Each file is important. Each client requires an attentive ear. In my opinion, a reputation is built above all on word of mouth. Rankings help to validate a choice of lawyer, but do not compare to a choice made on recommendation.

I was fortunate enough to always work in supportive environments. Whether in the successive professional environments that I have known, I have always been surrounded by "positive" people. I believe this point to be important because you should never tolerate "harmful" behaviours that drag you down: malicious words, derogatory or hurtful remarks... Conversely, you must know how to communicate, help others and encourage them. In short, our own behaviours can condition those of others and you must know how to be a team player by valuing others. Rallying them around you, that is naturally taking a place in the team, constitutes a natural act of "leadership" and that is in within reach of everyone.

Lastly, curiosity and audacity are qualities which I believe to be absolutely crucial.

Curiosity, as it allows you to increase your scope of intervention. There are always a thousand ways to implicate yourself beyond your work. In associations, institutions, projects, the review you are overseeing. Getting off the beaten track, finding ways to become known and meet other people, going beyond the daily routine... there are so many ways to have new ideas, new horizons, to meet new

people, to generate interest and thus new projects.

As regards audacity, you should not hesitate to surprise. I think everything is always possible. After all, the only risk is failure. But once you engage in a struggle, in a conquest, you must find a way to win, fairly, but with determination. In general this requires a lot of energy, but experience shows that it works rather well.

There are many ways to be successful in your professional life. I think the essential lies in networking and project opportunities. Driven by enthusiasm, and adhering to your values, you can only succeed! I am certain of one thing; life is full of great opportunities. You simply need to keep the window open to see what's going on outside. Conversely, nothing happens if we don't leave our comfort zone.

- **Cybersecurity in France law :**

The legal framework regarding cybersecurity is constantly changing in France, mainly driven by the European lawmaker: first of all, the entry into force on the 25th of May 2016 of the European regulation on data protection has reinforced the obligation of personal data protection which was already specified in the French Law on Information Technology, Data Files and Civil Liberties.

This consolidation of personal data protection has established a risk-based approach for public and private players who must from now on systematically verify the legal and technical security of data processing before it is implemented. This is the approach of "privacy by design".

> *The legal framework regarding cybersecurity is constantly changing in France*

Moreover, the adoption on the 17th of April 2019 of Regulation 2019/881 further strengthened the European legal framework regarding cybersecurity. This regulation notably provides for the implementation of a set of certification systems at EU level as well as an EU agency for cybersecurity which would replace and extend the powers of the current European Union Agency responsible for network and information security (ENISA).

This is a field in which lawyers have still not invested enough while companies' needs for advice and assistance continue to grow. The National Bar Council has introduced training courses to encourage lawyers to master the subject. We will launch in particular online training modules concerning GDPR and cybersecurity.

- **Internet and Media Law**

Since the 1990's, this field has not ceased to pose permanent challenges to all legal disciplines. Technological advances lead to a constant adaptation of existing legal rules and need for creativity in researching legal instruments.

The most prominent files in this field are those that have dealt with cases of service provider liability. These are the great legal proceedings between 1995 and 2000 which led to the 2004 Law on Confidence in the Digital Economy which defined the liability regimes of the various players: the content editor, the host provider, liable if obviously illegal content is not removed after notification, service provider, not liable on principle. But as soon as the law came into effect, following long proceedings, the boundaries were questioned with the appearance of new players such as Dailymotion, Yahoo... These

claimed the status of service providers, denying any responsibility of content. The stakeholders considered them, in turn, to be liable as the content was published under their name with specific constraints (number of bytes, etc.).

There is also the challenge linked to the transnational nature of the internet and the difficulty for states to impose their national laws. One of the most significant examples is that of GAFA which dominates the world and opens new spheres of thought and also concerns.

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From a societal point of view, the internet marks a decisive turning point in the history of humanity and has considerably disrupted the social models in which we live. However, generally the fundamentals of law are holding their own rather well.

- **Algorithms and artificial intelligence**

The development of algorithmic processing is worrying, particularly in the field of justice. Although there is no question that these new tools help in decision-making, we cannot rule out the possibility of a gradual trend towards substitution.

On this subject, the National Bar Council has mobilised and actively worked towards the inclusion in the law on justice reform of a provision that forbids any legal decision being taken exclusively by algorithmic processing. It is also for this reason that this issue was put on the agenda for the G7 lawyers meeting which took place last July. We have called on our governments to exercise the utmost vigilance when deploying algorithmic processing in our judicial systems.

With this same objective in mind, we have approved a motion to prevent the privatisation of judicial data and to facilitate public access to court decisions.

This issue concerns, more broadly, the use of algorithms in administrative decisions or even in the health sector. We, lawyers, must remain vigilant in these matters.

Female Lawyer from England: Christina Blacklaws

Immediate Past President of the Law Society of England and Wales

My name is Christina Blacklaws and I am the Immediate Past President of the Law Society of England and Wales.

I have had a long and interesting career in law with three driving forces shaping all that I have done: innovation, access to justice and gender equality.

I originally specialised in representing some of the most vulnerable and deprived children in our society. I was managing partner of a community-based law firm which did a lot of legal aid work.

In the mid-2000s I set up my own law firm which I grew to be the largest specialist family law firm in the country.

At this point, I started to develop new ways of delivering legal services by establishing a 'virtual' law firm. Basically, my firm provided all back-office services, including technological, to self-employed consultants across the whole country.

The law changed in the UK which allowed non- lawyers to own and manage legal businesses. I approached one of our largest UK businesses- the Cooperative

> *In the mid-2000s I set up my own law firm which I grew to be the largest specialist family law firm in the country.*

Group, to suggest that they should develop a family law offering and they agreed.

In 2011, we set up the first UK Alternative Business Structure (ABS).

Afterwards, I became a director of policy, responsible for all external affairs.

Later I moved to a large law firm where I was their Chief Operating Officer and then became their Director of Innovation- responsible for horizon-scanning and development of innovative service delivery and operational models, including technological development.

Throughout my career, I have always undertaken voluntary work which included, since 2002, being a member of the Law Society Council (the governing body of solicitors). I sat on and chaired many committees and boards- often being the chief negotiator with government on important issues.

I really enjoyed this voluntary work as I felt immense satisfaction with helping not only my profession but also the public through the access to justice and rule of law work I undertook.

I became a representative of the Women Lawyers Division and started to work hard around issues of gender equality and balance.

In 2016, I put myself forward for election to the role of Deputy Vice President of the Law Society. (The process entails election to this role and then you succeed to the role of Vice President and on to President).

As soon as I was elected, I started to develop the three themes which had been of fundamental importance to me throughout my career and life - Innovation and the future of legal services, access to justice and gender equality.

With the help of my wonderful colleagues, over the three years as an office holder, I developed and spearheaded some important programmes.

Although we did some great and important work in access to justice, I wanted to tell your readers about the two programmes around Innovation and technology and women in leadership in law.

The technology initiative is so vital. I firmly believe that it is an issue of survival for law firms and legal businesses. We

> *The technology initiative is so vital. I firmly believe that it is an issue of survival for law firms and legal businesses.*

must embrace the best technological solutions and adapt our ways of working to leverage the benefits. If we don't, we risk our relevancy to our clients.

We developed a partnership with Barclays Bank which led to the first industry specific incubators. This project is supported by some of our largest global law firms and currently there are 20 LawTech businesses in the incubator.

The purpose was to open up LawTech to lawyers from all walks of life and to ensure that the technologists had access to the right expertise from lawyers.

On top of this, we have undertaken many events and roadshows and produced some guidance to help 'demystify' technology for lawyers so they can make sensible, well informed decisions about what tech to use.

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We have also led on thought leadership and I was privileged to chair the Technology and Law Policy Commission which produced a report on the use of algorithms in the criminal justice system (https://www.lawsociety.org.uk/support-services/research-trends/algorithm-use-in-the-criminal-justice-system-report/).

Finally, the UK government asked me to chair the LawTech Delivery Panel- a group charged with growing the LawTech industry in the UK, ensuring we have the correct regulatory and legislative frameworks and that we are developing the correct training for lawyers for the future. I continue to chair this panel in my personal capacity.

The second main strategy I was able to spearhead was the Women in Leadership in Law programme.

> *I had the privilege of personally facilitating 48 round tables in 18 different jurisdictions.*

Across the world, women are entering the law in large numbers (in the UK this has been over 50% for nearly 30 years) and yet they are not reaching leadership positions in anything like equivalent numbers.

We wanted to undertake the research so that we had the evidence as to why and could recommend and implement the solutions.

We undertook the largest ever global survey on this subject, an international academic literature review and over 250 round tables in 19 jurisdictions.

The purpose of the round tables was twofold. Firstly, to create an informed discussion around the key issues which we found from the survey: bias, lack of flexible working, the problem of difficult work/ life balances and the gender pay gap and gather women's lives experienced from around the world. The second, equally important purpose was to empower women to become leaders and change makers in their own organisations and to that end we created a toolkit with opportunities for activism and everyone was encouraged to do something from the toolkit.

I had the privilege of personally facilitating 48 round tables in 18 different jurisdictions.

From these round tables, we produced three reports: one each front he domestic and international round tables and one from the men's round tables that we held.

In June 2019, we held an international symposium which was attended by lawyers and policy makers from all over the world and during which we explored all the issues and also launched, with the support of our government and all the representative bodies, the Women in Law Pledge which distils all that we have learned into some simple but impactful actions. (I've attached a zip file with all the documents we produced here....)

After stepping down from the role of President in July, I have been busy setting up my own consultancy firm, helping global legal businesses to develop innovative solutions to ensure future success by combining my expertise in the business of law, technology and people development. I am happy to talk to any law firm or legal business which might like some help.

(CEAA)

Chinese European Arbitration Association

Dr. Elke Umbeck

vice president of the Chinese European Arbitration Association (CEAA)

1- Tell us about yourself.

I am partner of the German Independent law firm Heuking Kühn Lüer Wojtek which with about 450 lawyers advises German and foreign clients in all fields of law. My field is that of arbitration and litigation. I am regularly acting as arbitrator and counsel in national and international arbitration proceedings and give advice in complex disputes.

2- What do you do at CEAC?

I am vice president of the Chinese European Arbitration Association (CEAA) which is the sole shareholder of the Chinese European Arbitration Center (CEAC) and which helps to promote CEAC.

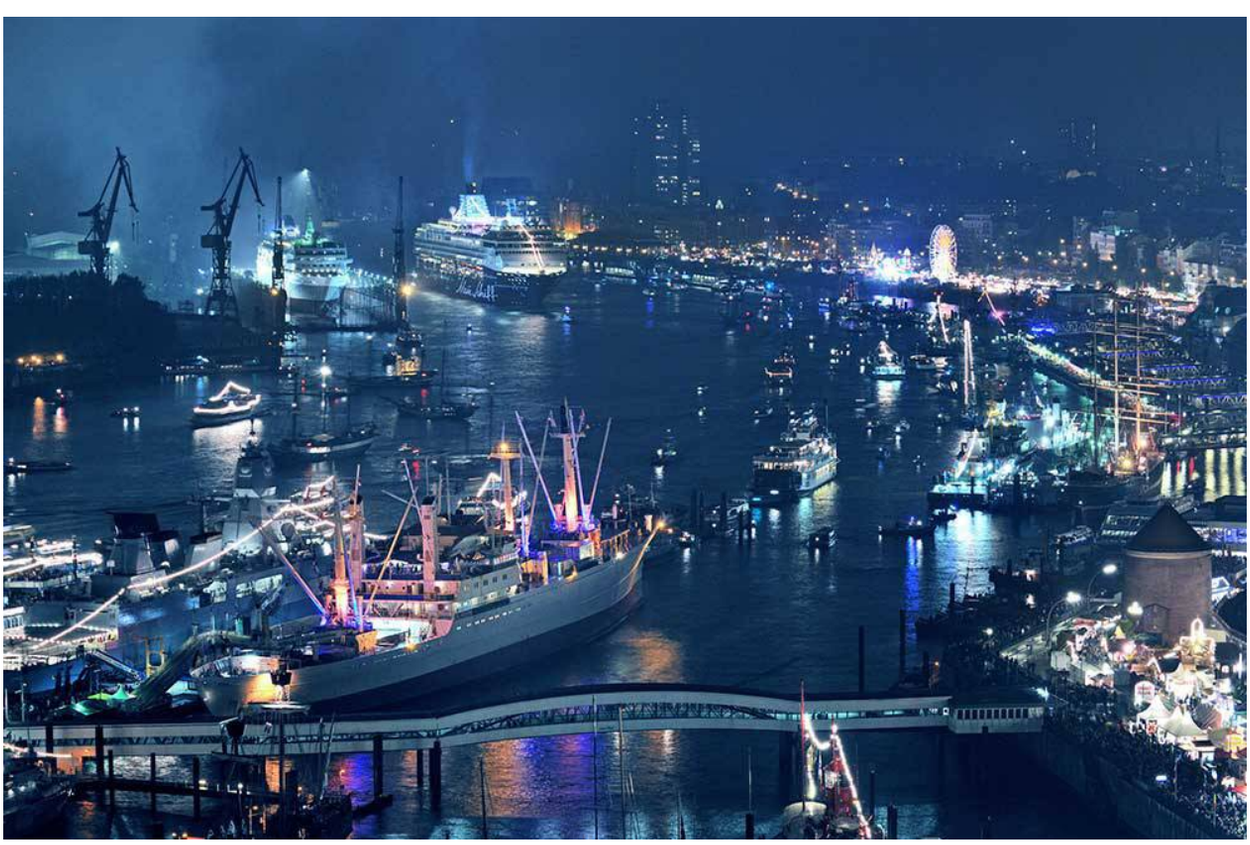
"I am partner of the German Independent law firm Heuking Kühn Lüer Wojtek"

3- Tell us more about CEAC and which jurisdictions were involved in cases handled by CEAC

CEAC is designed to deal with international arbitrations involving a Chinese party. It is seated at the Commercial Chamber of Hamburg, which has a long standing arbitration history. The members of CEAC's Advisory Board and CEAC Appointing Authority come from different jurisdictions including China which makes CEAC a quite unique arbitration institut. CEAC handled cases with parties from seven different jurisdictions. Companies from jurisdictions like Canada, China, Germany, Italy and Spain have opted for arbitration clauses referring to CEAC in several key areas, such as the solar industry.

4- Who established this center, when & why?

CEAC was founded with the support of more than 450 lawyers and institutions from 25 countries. The idea was to accommodate the demands of European-Asian business in an arbitration centre in the city of Hamburg which has been a hub for Chinese trade and investments with Central and Eastern Europe. The preparatory meetings relied on the advice of leading arbitration practitioners and of institutions like CCPIT, CIETAC, ACLA and the Bar Association of Shanghai. The launch of the Center in September 2008 took place in the city hall of Hamburg under the auspices of Secretary of Justice. In 2018, CEAC celebrated its 10th anniversary with a very successful international conference with discussions on the Chinese silk road project and bridges beteween civil and common law.



5- How were the CEAC rules drafted?

Based on the 1976 UNCITRAL Arbitration Rules, the first version of the CEAC Rules 2008 was adopted by the General Assembly during its founding meeting in September 2008. However, between October 2007 and August 2008 international discussions were leaded by the supporters resulting in adjustments and amendments tailored to the needs of China related disputes settlement which lead to revised CEAC rules in 2012 which are currently in place.

6- How can lawyers become an arbitrator in the CEAC?

Lawyers with experience in arbitrations and China related matters can become an arbitrator. Further requirements are that the candidate has been admitted for at least eight years to a bar or practice as Law Professor in an appropriate/relevant area of law and that he or she becomes a member of the Chinese European Arbitration Association (CEAA). This is a requisite because lawyers or attorneys under Chinese Law are required to have this minimum eight years experience if they want to work as arbitrators. The request is to be submitted to the CEAC using the Application Form and will be later decided by the Advisory Board of CEAC.

7- There's any organization support CEAC?

CEAC is backed by the Chinese European Arbitration Centre (CEAA) which is the solely shareholder of CEAC. In addition, partly on the basis of cooperation agreements, many other institutions have been cooperating with the Centre inter alia in the organisation of events either in Germany or in China, among them are the German Arbitration Institution (Deutsche Institution für Schiedsgerichtsbarkeit, DIS), the Hong Kong International Arbitration Center (HKIAC), the Cairo Regional Center for International Commercial Arbitration (CRCICA), China International Economic Trade and Arbitration Commission (CIETAC). And that is not to mention the 450 supporters and institutions from 25 countries that contributed to the shape and establish the institution.

8- Can you tell us about the main features of the rules?

The CEAC rules are mostly based on UNCITRAL Arbitration Rules. That includes the change of the rules in 2010, which was transposed to the the CEAC Rules in September 2012, so that modern provisions in the field were adopted by the CEAC, such as rules pertaining multi-

party proceedings and decisions based solely on documents. However, some minor deviations from the UNCITRAL Rules are present, like provisions regarding time limit for arbitral awards and costs of arbitral proceedings. Also the CEAC rules will be interpreted under the light of the German Provisions on Arbitration (ZPO §§ 1025 - 1066) when Hamburg is agreed upon as the seat of arbitration. Additionally, CEAC Rules contain provisions on the challenge and appointment of arbitrators by means of a neutral CEAC Appointing Authority and on the CEAC model arbitration clause.

"The preparatory meetings relied on the advice of leading arbitration practitioners and of institutions like CCPIT, CIETAC, ACLA and the Bar Association of Shanghai. The launch of the Center in September 2008 took place in the city hall of Hamburg under the auspices of Secretary of Justice"

9- What about the time & the cost efficiency?

The costs involved in CEAC arbitral proceedings are moderate and depend on the amount in dispute. The costs are determined in the CEACs annex and are reasonable and comparable to the schedules of costs of other renowned international arbitration institutions. With regard to time, according to article 31a of the CEAC Rules, the award is to be rendered within nine months after the constitution of the arbitral tribunal. Irrespective of that, about 50% of the cases under CEAC have been finished within six months.

10- What actually distinguishes CEAC from others?

CEAC is the only arbitration institution with a multilateral approach with regards to European-Chinese-Asean relations. As such, the CEAC Choice of Law Clause

offers options to agree on common and/or neutral substantive law rules such as the UNIDROIT principles. Moreover, the city in which it is placed plays a big role, as Hamburg is China's leading European business and investment hub, with around 700 companies from Hamburg trading with Chinese partners and 520 Chinese businesses having a physical presence in the city. More than 15 arbitral institutions have their seat in Hamburg, making the city also one of the world's leading centres for international arbitration.

11- What CEAC is doing in order to shape and impact the international Arbitration practice in the whole region of European & Asia Pacific?

CEAA as shareholder of the CEAC and responsible for the promotion of cultural exchange and the education of lawyers in the field of international arbitration. Numerous events, like the China Arbitration Day in Hamburg (2011) and in Munich (2012) were held jointly by the CEAC and other institutions such as CIETAC, the HKIAC and the BAC. The centre has always supported the Vis Moot Court in Vienna and Hong Kong, as well as the Düsseldorf Arbitration School. CEAA seeks to foster arbitration and other alternative means of dispute resolution, as it holds symposia and events, cooperates with international organisations pursuing the same goals.

12- Can you share your views why it's good to choose CEAC for any Arbitration administered by an institution?

The CEAC Rules were meant to be a fit and proper regulation for China-related business, so that the main concern was that judgments based on an arbitration clause referring to CEAC are recognisable and enforceable in China. That comprises, for instance, the qualification of the arbitrators which are asked under Chinese law to have 8 years of experience, and so are required under the CEAC rules on admission of arbitrators. The CEAC also endeavours to ensure neutrality with regard to the substantive law applicable to the contracts, as this is also an issue that can attract parties' concerns and even jeopardize enforceability of an award. For this purpose the unique model arbitration clause under the CEAC allows the parties to rely on neutral legal texts like the CISG and the UNIDROIT with the addition of a provision excluding national reservations. As both CISG and the UNIDROIT have influenced Chinese contract law changes in 1999

and 2016, this provision should also ease the work of chinese arbitrators or chinese institutional arbitrations that choose to apply the CEAC Rules. Even where the german national arbitration law becomes relevant, in case the parties provide for an arbitration seat in Germany, neutrality is to be granted, since the German Civil Procedure Coder on arbitration is based on the neutral UNCITRAL Model Law on Arbitration.

13- Tell us about the International Arbitration in light of the Belt and Road Initiative: Building Bridges – Building Connections.

As China's import and export trade continues to grow, the role of international commercial arbitration in Chinese-related dispute resolutions also rises, ensuring that market participants in China-related transactions have access to justice. As a result of infrastructure investments linking China with Europe, inter alia in the context of the Belt and Road Initiative, the transactional costs involved have a huge impact. In such context, arbitration as an effective means of dispute resolution in international contracts has an importante role. Moreover, arbitration also serves as an extra incentive to increase international commerce, since it is much faster and, in most cases, cheaper than ordinary state courts, let alone the fact that it prevents problems concerning enforceability of the awards rendered.

> *As such, the CEAC Choice of Law Clause offers options to agree on common and/or neutral substantive law rules such as the UNIDROIT principles. Moreover, the city in which it is placed plays a big role, as Hamburg is China's leading European business and investment hub, with around 700 companies from Hamburg trading with Chinese partners and 520 Chinese businesses having a physical presence in the city*

Dr. Dorothee Ruckteschler

Female LAWYER FROM GERMANY

Question 1: Kindly provide a brief introduction of yourself.

Dorothee Ruckteschler started her career as attorney in 1983 at the law firm. She headed the German Dispute Resolution Group from 2002 until 2013 and the CMS International Arbitration Group from 2013 until 2018. As of 1 July 2018 she was appointed as member of the ICC International Court of Arbitration.

I'm partner at Law firm domestic and multi-national corporations in proceedings before German courts as well as in national and international arbitration proceedings, with particular experience in disputes arising from M&A transactions, shareholder disputes and D&O liability cases. She also specialises in energy law disputes and general commercial litigation. She has represented clients in a large number of international arbitration proceedings under various major institutional rules.

Furthermore, Dorothee Ruckteschler is regularly ppointed as an arbitrator – both as party appointed arbitrator and chair – in national and international high-profile arbitration proceedings.

Question 2: What are some post-Merger & Acquisition success factors?

As a disputes lawyer, I am normally not involved in the post-merger activities of the purchaser. However, from my experience of the disputes which we see following the transactions, it would seem to me that for the purchaser it is very important to keep on board the key personnel of the target and to build trust between the personnel of the target and the new owners very quickly after the closing of the transaction. Post-merger integration to me seems to be a key factor for making the transaction a success.

As regards potential disputes, I would advise the parties to the transaction to do a kind of "post M&A due diligence". Very often the purchaser is so busy with integrating the target into its group that no post-closing monitoring takes place. Likewise, the seller tends to turn to other projects once the purchase price has been paid. However, the SPA usually contains many deadlines for potential rights of both, the seller and the purchaser, which need to be observed in order to safeguard these rights. Often, disputes arise because the contractual requirements for the respective rights have not been observed.

Question 3: What are some of the post-acquisition dispute resolution challenges?

Although the M&A lawyers take great care in carefully negotiating all the specific clauses contained in the SPA, the wording is sometimes still ambiguous when looked at from the outside. Consequently, many post M&A disputes arise from the question in which way a specific clause is to be understood. There, we often run into cultural differences with one side arguing that the contractual clause cannot be interpreted but needs to be taken at face value and the other side insists that the history of the specific disputed wording needs to be taken into account.

In addition, the SPA usually contains a very specific liability regime which normally has been negotiated in detail, for example the catalogue of representations and warranties. Therefore, the purchasers often try very hard to argue their claim as being a warranty claim even though this might be stretching the wording very much. In such cases, we also often see that purchasers try to raise claims for damages outside the negotiated

> *It is very important to keep on board the key personnel of the target and to build trust between the personnel of the target and the new owners very quickly after the closing of the transaction*

> *Arbitration is very well-positioned to take into consideration the complexity of many M&A transactions as it provides for much flexibility in the proceedings.*

warranties. This, however, creates new problems (see Question 4).

Question 4: What are some of the new developments in M&A disputes in the last two years?

Because of the narrow liability regime which I have mentioned above, we very often see that purchasers try to plead bad faith on the part of the seller in order to overcome the restrictions of the warranty regime in the SPA. This means that the claiming purchaser alleges fraud on the part of the seller. Not only is it usually very difficult to prove fraud. It is my observation that pleading fraud always leads to the dispute being conducted in a very emotional and irrational way and results in fiercer fights than we have seen in the past.

Question 5: To what extent can arbitration reflect the complexity and nuances of M&A transactions – perspectives of arbitration and transactional practitioners?

In my view, arbitration is very well-positioned to take into consideration the complexity of many M&A transactions as it provides for much flexibility in the proceedings. In addition, arbitral tribunals usually have more time to look into the details of the dispute than normal state courts. For example, arbitrators are normally open to review the various drafts of the SPA (provided that are introduced into the proceedings by the parties) in order to understand the development of a certain clause. In addition, the members of an arbitral tribunal are usually able to read and understand the intricacies of the contract language even if the contract language is not their mother tongue. This is because the parties are usually able to select the arbitrators and have the opportunity to find people with the necessary language skills.

Question 6: How to structure financing of M&A disputes in the case of strategic and financial investors – the problem of third party funding?

I do not have any own and direct experience with third party funding. However, it seems

to me that third party funding is increasingly used in all kinds of large disputes. In my view, this in itself is no problem. However, the use of third party funding definitely needs to be disclosed to the arbitral tribunal and to the other side. And the third party funder should be under the same disclosure obligations as the arbitrators.

Question 7: The belt and road initiative means hundreds of M&A transactions. How can arbitration foster development of this business strategy?

It is my expectation that most of the contracts regarding any kind of infrastructure projects in connection with the belt and road initiative will be cross-border transactions, thus involving companies from different countries. In my opinion it is absolutely essential that the parties to such contracts agree on arbitration in their dispute resolution clause. It seems to me that it would be completely irrational and constitute a serious risk for both sides of such a transaction if they were not to agree on arbitration, but rather on litigation in front of the local courts. In such a situation, the party not being from the country the courts of which are being granted the power to decide such a dispute, will always have or at least feel to have a disadvantage over the other party, simply because of a different language being used in front of those courts than its own normal business language. This is something which needs to be explained to both parties at the negotiation time.

It is my expectation that most of the contracts regarding any kind of infrastructure projects in connection with the belt and road initiative will be cross-border transactions, thus involving companies from different countries

Question 8: Are merger and acquisition disputes best resolved through arbitration?

In my view, the answer is yes. There are, in particular, two aspects which are very important here. First, arbitration proceedings are much better suited to protect the confidential details of the SPA as hearings before the arbitral tribunal are usually not open to the public (the press), but only to the parties and their advisors. Second, as the parties are directly involved in the selection of the arbitrators and have substantial influence on the composition of the arbitral tribunal, they can ensure that the arbitrators have the specific expertise which is needed or at least very helpful in order to decide the disputed issues. It is also very helpful that in arbitration proceedings, the parties can agree on the language in which the documents which they want to rely on are provided to the tribunal. Thereby, in many cases, burdensome (and costly) translations can be avoided.

Doing M&A in China under the New Foreign Investment Law

Lawyer From Chaina

Wayne Wang

Equity Partner - Law Firm

Leading Lawyer for Cross Border Projects of the One Belt One Road Strategy" - All China Lawyers' Association, September 2016 "Recommended lawyer for China (Projects & Infrastructure, Banking & Finance)

Mr. Wang specializes in M&A and FDI into China, as well as China outbound M&A.

The Foreign Investment Law of the PRC (the "*FI Law*") was passed by China's parliament on March 15, 2019 and will come into force on January 1, 2020.

As an iconic event of China's efforts to further open up its market, the FI Law will overhaul China's foreign investment legal framework, with extensive impact on both incorporation of foreign invested enterprises ("*FIEs*") and mergers and acquisitions of domestic companies by foreign investors.

This article will address a few key issues under the FI Law.

1. Market access

Historically, foreign investment in China was subject to regulatory approval and the joint venture contracts and articles of association of FIEs were subject to regulatory review. In recent years, the approval requirement has been replaced by filing procedures. The FI Law has reaffirmed that foreign investment in China only needs to be filed with (rather than approved by) the relevant authorities.

The FI Law has referred to the list of industries where foreign investment is restricted or prohibited (the "Negative List"), last updated in June 2019 by the National Development and Reform Commission and the Ministry of Commerce.

According to the Negative List, foreign investors are not permitted to invest in the prohibited industries and must not acquire more than a certain percentage of shares in companies in certain restricted industries.

Notably, the number of restricted or prohibited industries has been reduced from 48 to 40. Several industries have been further opened up for foreign investment, such as exploration and exploitation of petroleum and natural gas, construction and operation of cinemas.

Foreign investors are now permitted to invest in any industries not set out on the Negative List. This has effectively given a "national treatment" to foreign investors in China in non-sensitive industries.

2. Registered capital (i.e., share capital)

Previously, shareholders of FIEs are required to pay up their "registered capital" within a certain timeframe and there was a minimum registered capital requirement for FIEs in many cases.

In recent years, such requirements of minimum registered capital and statutory timeframe for capital contribution have been removed. These changes occurred prior to enactment

the FI Law, but are worth noting by foreign investors as well.

To some extent, the PRC's company law is more similar to the common law in these respects. For example, an investor may stipulate in the articles of association of the FIE that it will pay up the registered capital in 20 years, which is legal. If a foreign investor acquires shares in a PRC company, it is not required by law to pay the consideration before it can be registered as the shareholder of the target company (although its dividend and voting rights may be restricted before it fully pays the consideration).

3. State security review

According to Article 35 of the FI Law, a state security review shall be conducted by the relevant authority to confirm whether a foreign investment project will affect or potentially affect China's state security. Detailed implementation measures regarding state security review will be enacted later. This is a new area of law in China. The PRC government is of the view that this is in line with international common practice of other jurisdictions.

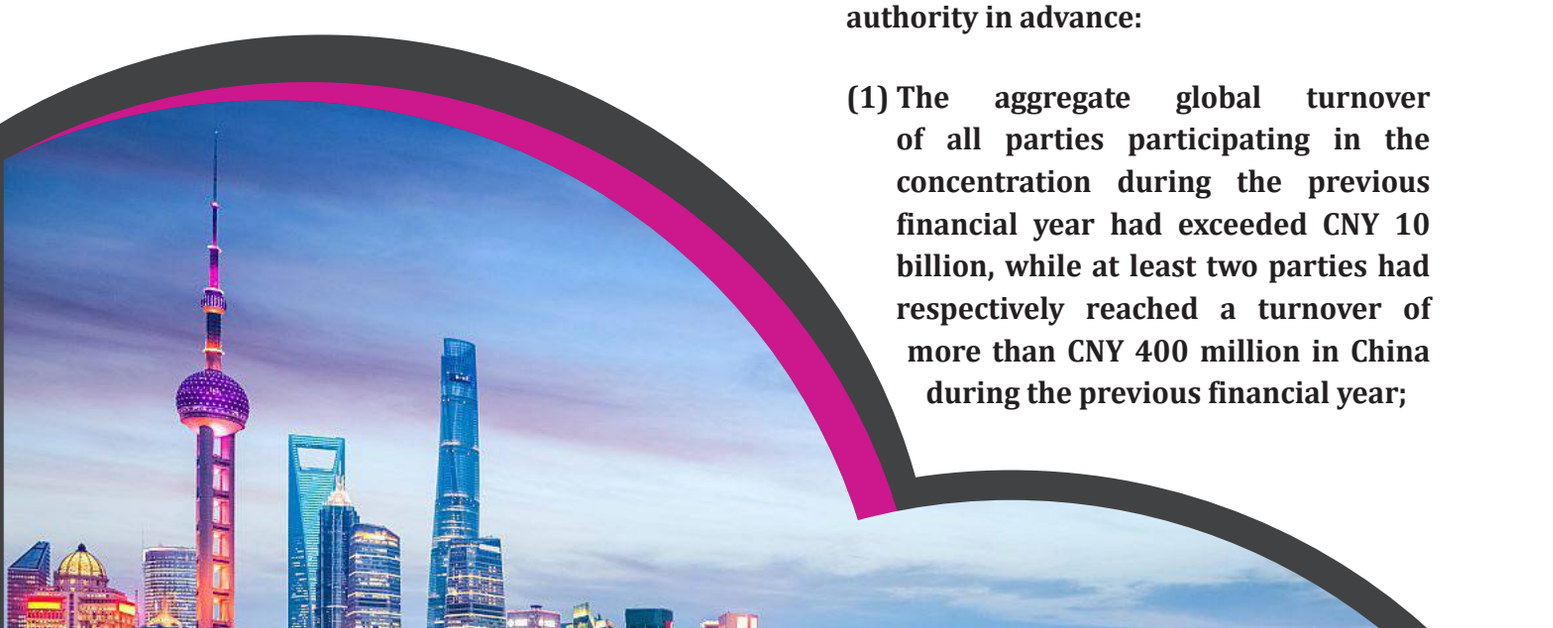
It is expected that the new "state security review" mechanism will apply to foreign investors doing both M&A and greenfield investment in China. If the foreign acquisition target in China holds sensitive technology or is of a significant size, it is likely that the "state security review" will be triggered.

4. Anti-trust

According to the FI Law, where a foreign investor is involved in a concentration of business by merging or acquiring a domestic company, such transaction shall be examined by the relevant authority under the Anti-monopoly Law.

If any party involved in the transaction has met the following thresholds, the parties shall file an application with the relevant authority in advance:

(1) The aggregate global turnover of all parties participating in the concentration during the previous financial year had exceeded CNY 10 billion, while at least two parties had respectively reached a turnover of more than CNY 400 million in China during the previous financial year;



(2) The aggregate turnover in China by all parties participating in the concentration during the previous financial year had exceeded CNY 2 billion, while at least two parties had respectively reached a turnover of more than CNY 400 million in China during the previous financial year.

5. VIE Structure

In the past, many foreign investors (including PRC domestic investors setting up companies in overseas and making "round trip" investment back to China) have used the so called "VIE" structure to effectively control PRC companies operating in industries where foreign investment was prohibited or restricted. Many well-known internet companies of China, such as Alibaba and Baidu, have also used this structure. It has also been used by many foreign investors in the eduction sector as well.

For years, it has been an arguable issue whether foreign investment via the VIE structure is legal and should be subject to regulatory supervision. To some extent, it is commonly understood as a "grey area".

In the earlier discussion draft of the FI Law, it was proposed that all VIE structures shall be considered as foreign investment and subject to regulatory supervision.

However, the formally released FI Law has removed VIE structure from the definition of "foreign investment", while retaining a "catch all" provision referring to "other forms of foreign investment as stipulated by the State Council". It remains to be seen as to whether and when the State Council will stipulate what are the "other forms of foreign investment" and what would be the new regulatory requirements on VIE structure.

6. Equal opportunity

The FI Law has expressly provided that the state's various policies on supporting enterprises shall equally apply to FIEs pursuant to law. Further, before the government enacts any laws, regulations or measures affecting interests of FIEs, they shall seek opinions and comments from FIEs.

FIEs are also entitled to equally participate in the formulation of product quality standards, bid for government

procurement projects, conduct IPOs, issue corporate bonds or other securities or raise funds in the PRC by other means.

Moreover, it is stipulated in the FI Law that local governments must not enact regulations to derogate legal interests of FIEs or impose further obligations on them.

The policy undertakings given by local governments to FIEs must be honored, and the "investment contracts" signed by local governments and FIEs must be performed.

As such, the FI Law has provided more certainty for operation of FIEs in China after completion of M&A projects.

7. Foreign exchange

The FI Law has clarified that foreign investors' capital contribution, profits, capital gain, sales proceeds of assets, IP licensing fees, legally obtained damages and indemnity, and liquidation proceeds, can all be freely remitted to overseas from China, or to China from overseas.

For foreign investors doing M&A in China, the FI Law has provided more certainty for their exit strategy post-acquisition.

8. IP protection and technology transfer

It is well known that IP protection is a key issue during the trade talks between China and the USA. The FI law has expressly prohibited government entities or their officials from using administrative measures to force technology transfer. Furthermore, the terms and conditions of technology cooperation shall be determined by the parties following negotiation based on the principles of fairness and equality.

Foreign investors setting JVs with Chinese partners may resort to these provisions of the FI Law when dealing with technology licensing / transfer issues.

9. Complaint mechanism

Under the FI Law, the state will establish a mechanism to handle complaints of FIEs, coordinate and improve key policy measures relating to complaints of FIEs, and handle their complaints timely. FIEs

are entitled to lodge complaints against government entities and their officials who infringe their legal interests, apply for review of administrative decisions or initiate court proceedings against government entities.

The detailed implementation measures for the said mechanism have yet to be released. However, in the future, foreign investors doing M&A in China may also enjoy the aforementioned rights.

Conclusion

In general, there are many significant changes brought by the FI Law. The above is only a non-exhaustive list.

There is no doubt that the PRC's legal environment is becoming more friendly to foreign investors and in line with international standards in many respects. In the other hand, according to the general practice of the PRC, it remains to be seen as to what will the detailed implementation measures under the national law (such as the FI Law) look like and how will the "implementation measures" be implemented in practice. It is expected that most of the implementation measures will be released after the FI Law becomes effective on 1 January 2020.

Hong Kong as an Hub for International Arbitration

By: Dr. Jeffry Lo

Legal Counsel of CAA International Arbitration Centre (CAAI)/ Chinese Arbitration Association, Taipei (CAA)

Introduction

Hong Kong is one of the major centers of international arbitration. Surveys conducted by White & Case and Queen Mary University has demonstrated that Hong Kong continues to be top-five choices of the seat of arbitration. Behind the success of Hong Kong, there are several advantages which support the vigorous development of its arbitration services.

These advantages include its Impressive economic performance, developed legal framework and supportive judiciary, the active legal community, convenient location and its China connection. This article will briefly address each of these factors.

Economic Performance

We shall start with the impressive economic performance of Hong Kong. Nowadays, Hong Kong is no doubt among the most modernized city in the world. Under the sustained effort of the Hong Kong government, the idea of "free port" has been largely realized in Hong Kong. Such idea opens Hong Kong to the world by reducing various barriers to international economic activities that are common in other places. Hong Kong has no foreign exchange restriction. It has relatively low barriers on foreign trade and investments. This openness comes with clear rewards. As the Doing Business published by World Bank demonstrates,

Hong Kong is among the best places in the world to conduct commercial activity. This favorable business environment enables Hong Kong as the choice of various multinational corporation to establish their branches, regional headquarters or even headquarters. It also attracts massive cross border trade and investment, and make this small region populated with a whole spectrum of industries.

The enormous amount of transactions happened in Hong Kong creates enriched soil for legal service to grow, and the high-quality legal service in turn provides an incentive to do business in Hong Kong. A virtuous cycle is therefore created.

Legal Framework

The next advantage of doing arbitration in Hong Kong is its comprehensive legal framework. As the first Asian jurisdiction which adopted the UNCITRAL Model Law on International Commercial Arbitration (the "Model Law"), Hong Kong has dedicated significant effort in refining its legal framework. Currently, the most important legislation in terms of arbitration in Hong Kong is the Arbitration Ordinance (HKAO), which took effect on June 1, 2011. With the introduction of HKAO, a unitary system substituted the original bifurcated system which divided domestic and international arbitration before 2011. HKAO adopts the 2006 version of the model law and goes beyond that in many aspects. It provides all the basic coverage, from the recognition and enforcement of the agreement to arbitrate, composition of the arbitral tribunal, the conduct of the arbitration, to the setting aside of an arbitral award and recognition and enforcement of a foreign award. In addition, HKAO stipulates that interim measures made by a tribunal or through emergency arbitrator procedure shall be recognized and enforced as well. In the 2017 amendment of HKAO, provisions regarding third-party funding were supplemented into the legislation, following tightly to the latest development in the international arbitration.

Turning to the international/transborder legal framework applicable to Hong Kong. The New York Convention, which is the most important international instrument in international arbitration, covers Hong Kong. When the UK acceded the Convention, it extended the effect of the convention to Hong Kong in 1977. And after the transfer of the sovereignty to China, the People's Republic of China government, who was also a party of the Convention, declared the Convention would continue to be effective in Hong Kong. The only difference is that the Convention no longer governs the recognition and enforcement of an award made in China or Macau and vice versa. They are now in

the territory of bilateral arrangements between these jurisdictions. These legal instruments ensure the enforceability of an arbitral award made in Hong Kong. One noticeable recent development is that Hong Kong and China enters into another arrangement that promotes reciprocal assistance in the enforcement of interim measures in arbitration, which furthers the attractiveness of doing arbitration in Hong Kong.

Supportive Judiciary

A supportive judiciary of Hong Kong ensures the legal framework discussed above functions well. The more than 100 years' British ruling establishes a solid common law legal system in Hong Kong, which is different from the more civil law styled legal system of China. That is due to the fact that concurrent with China's resumption of its sovereign over Hong Kong, a promise of "One Country, Two Systems" which allows Hong Kong to remain its economic and legal system until 2047 was made.

The highly competent, efficient judiciary is therefore preserved. In terms of arbitration, Hong Kong's court system is adopting a highly pro-arbitration attitude. The various support it provides is listed in the previous session. In addition, the supportiveness of the court also reflects in the court's professional knowledge on international arbitration and their pro-arbitration interpretation. For instance, if the court can be certain the parties' have agreed to arbitrate their dispute, it will usually remedy the possible defects in the arbitration agreement in accordance with the authorities provided by the HKAO.

> *"The high-quality legal service in turn provides an incentive to do business in Hong Kong. A virtuous cycle is therefore created"*

While some might cast doubts on the independence of the judiciary after the Chinese resumption of the sovereignty over Hong Kong, the record so far has demonstrated such worries are largely unfounded. As the World Economic Forum rated, Hong Kong remains to be the top jurisdiction when it comes to judicial independence. In fact, it was ranked first place among the Asian jurisdictions in 2018.

Legal Community

Hong Kong has a well-developed, and highly sophisticated arbitration community. A large amount of leading international law firms, arbitration practitioners and arbitrators have their base in Hong Kong. In terms of arbitral institutions, Hong Kong has its flagship institution Hong Kong International Arbitration Centre (HKIAC), which has become one of the most reputable arbitration institutions. In addition, to taking advantage of the various benefits of Hong Kong addressed in this article, a variety of foreign institutions are also eager to set or has set their base in Hong Kong. These institutions include the International Chamber of Commerce (ICC), The China International Economic and Trade Arbitration Commission (CIETAC), CIArb, etc. The Taiwan based Chinese Arbitration Association, Taipei (CAA) recently joined the Hong Kong's arbitration community by establishing a Hong Kong branch "CAA International Arbitration Centre" which specializes in international arbitration.

Another advantage of Hong Kong's is that there is a close relationship between the legal community and other industries or professions. When one requires assistance regarding the industry-specific matters in the arbitral proceeding, an expert of that industry is readily accessible. The same applies to interpreter or expert in foreign/international laws.

Convenient location and China connection

Hong Kong is a unique mix of Chinese and western society. On the one hand, the geographical proximity and the Chinese origin of most of the population of Hong Kong make it culturally very resemble with China. On the other hand, the western colonization has brought significant western influence in its legal, political, and social structure.

This gives Hong Kong a competitive edge in a world where China has been and expected to be more influential in the international economy. As a fruit of its mixture nature of both western and Chinese culture, Hong Kong has historically served as a bridge between China and the world. This feature works in favor of choosing Hong Kong to be the place of arbitration in arbitration involves a Chinese party, as it may be a neutral ground that both sides may accept.

> *"As the World Economic Forum rated, Hong Kong remains to be the top jurisdiction when it comes to judicial independence. In fact, it was ranked first place among the Asian jurisdictions in 2018"*

Doing Business in Kuwait

Lawyer : Areej Hamadah

Founder of the Legal Challenges Group Law firm and International Legal Magazine

AND

Editor-in-Chief

The State of Kuwait is one of the wealthiest, and it has a very sophisticated business people in the private sector. The country is witnessing a steady growth by diversification of its economy. There is significant expansion in various sectors:

- Oil & Gas, Oilfield Services and Energy
- Infrastructure, PPP/BOT Projects
- Health Services
- Education
- Environment
- Information Technology and Security
- Construction and Infrastructure Projects Sector

The government of Kuwait approved more than USD 150 billion for its National Development Plan, this leads the private sector companies seeking and pursuing cooperation with international and foreign companies

Investment in the State of Kuwait is articulated around its strategic position in the North Arabian Gulf region, ensuring its transformation into one of the world's prominent financial and trade centers within an economic and commercial passage that is free and safe for the region, and linking it to the Chinese initiative. Therefore, the Kuwaiti leadership is concerned with activating the Chinese-Kuwaiti exchange in several fields.

At the political level, Kuwait plays a pivotal role in the Middle East under the wise leadership of His Highness the Amir Sheikh Sabah Al-Ahmad Al-Sabah, who always strives to promote love and peace among the Arab peoples by convergence of the brotherly views of the Gulf region by virtue of the special status of His Highness at the global level, through adopting a policy that is based on moderation and conciliation.

The State of Kuwait has shown significant interest in promoting foreign investment through the enactment of a specialized law regulating their work, in addition to the establishment of a specialized Authority under Law No. 116 of 2013 concerning the Promotion of Direct Investment in the State of Kuwait. This Authority acts as an executive economic arm of the State of Kuwait and plays several roles including, without limitation, attracting and promoting

"At the political level, Kuwait plays a pivotal role in the Middle East under the wise leadership of His Highness the Amir Sheikh Sabah Al-Ahmad Al-Sabah, who always strives to promote love and peace among the Arab peoples by convergence of the brotherly views of the Gulf region by virtue of the special status of His Highness at the global level, through adopting a policy that is based on moderation and conciliation"

foreign direct investments to Kuwait, which have added value and incentives for innovation. In addition, this authority undertakes a regulatory procedural role to facilitate the work of foreign investors, and through which the applications for investment license are received and approved. As well as granting incentives in accordance with the criteria stipulated in the provisions of the law of its establishment through cooperation with the relevant authorities to continue to provide subsequent facilities for foreign licensed projects.

The law, referred to above, has tackled the main considerations for the approval of foreign investment, as Article (12) thereof stipulates that the application for investment license shall be submitted by an investment entity set forth in accordance with the following:

A Kuwaiti company as one of the types of companies stipulated in the Kuwaiti Commercial Companies Law No. 25 of 2012 (One Person Company – Joint Stock Company – Limited Liability Company – Professional Company – Holding Company – Solidarity Company – Limited Partnership Company – Partnership limited by shares – Joint-venture Company). The foreign investor's share may be up to 100% of its capital, provided the said Company is established for the purpose of direct investment.

A branch of a foreign company licensed to operate within Kuwait for the purpose of direct investment. The competent minister shall issue a decision clarifying the bases and rules regulating the relationship between the foreign company's branch and the official bodies in respect of the transactions necessary for its operation.

Representation offices whose objective is to study the markets and the possibility of production without engaging in any commercial activity or the activity of commercial agents.

Article (15) of the said law deals with the time frame for approving the license application for the foreign investor, which is (30) days from the date of submission of the license application subject to fulfilling all the data, documents and conditions specified by the Authority. In case of rejection of the license application, the rejection decision must be in writing and justified, and the applicant has the right to appeal within (30) days. This is considered as a decision to reject the appeal pursuant to Article (16) of the same law.

An administrative unit facility, called the "single window", was established to facilitate the process of foreign direct investment in the State of Kuwait, pursuant to Article (17) of the law. This Unit includes commissioners from the governmental bodies related to the procedures of licensing the investment entity to ensure proper completion of transactions within the time period set by the law, which is (30) days. The applicant is also entitled to appoint a qualified consultancy firm approved by the Authority in accordance with the bases and rules determined thereby.

As for the issue of expropriation, it was regulated by Article (19) of the law, which

states that, "No investment entity licensed under the provisions of this law may be subject to requisition or expropriation except for public utility in consideration for a compensation equivalent to the economic value of the expropriated project at the time of expropriation. Such value is to be estimated based on the economic condition prior to occurrence of any threat of expropriation and the compensation value shall be paid immediately after issuance of that decision".

Moreover, Article (20) of the same law regulates the issue of transfer of ownership by giving the investor the right to transfer, renounce or dispose of the ownership of the licensed investment entity, in whole or in part, whether the transfer is in favor of the foreign investor or a Kuwaiti investor. In case of transfer of ownership, the new owner or transferee shall replace the original owner in the respective rights and duties.

> *"With regard to the restrictions on foreign investment, there is complete flexibility, but it should not be contrary to Law and order, public morals and Islamic religious constants."*

With respect to the merger process, pursuant to Article (21) of the law, the approval of the Board of Directors of the Kuwait Direct Investment Promotion Authority is permissible for the merger of two or more investment entities based upon a joint request. The new entity resulting from the merger process becomes a legal successor to the merged entities and replace them with respect to the rights and obligations, subject to a decision by the Ministry of Commerce and Industry concerning the procedures, conditions and terms of the merger. The investor may also, under the provisions of Article (22), transfer its profits or capital produced from disposition of its shares or equity in the investment entity.

The merger or acquisition processes are considered significant solutions in the economic process, but there are some obstacles and challenges, most notably the legal legislative environment in Kuwait to help companies to adopt a clear way in the merger process. Thus, there must be specific conditions for the merger process in addition to the current routine procedures that limit the merger in Kuwait. Nevertheless, Kuwait is looking forward to a new economic birth and the enactment of a set of modern and sophisticated economic laws in the future.

With regard to the restrictions on foreign investment, there is complete flexibility, but it should not be contrary to Law and order, public morals and Islamic religious constants.

There are some minor restrictions on foreign exchange that foreign investors

must familiarize themselves with, as follows:

1) The maximum limit for cash transfer is KD 3,000/-, while the maximum limit for transfer by ATM debit card to a bank is KD 40,000/-.

2) There is no ceiling limit for transfers between banks, but it is a condition to prove the source of funds.

3) Kuwait enjoys free movement of capital and profits to abroad if the source of funds is a legitimate and legal source.

4) In case of transporting a cash amount into Kuwait in foreign currencies in excess of KD 3,000, the source of the money must be confirmed and the documents proving the origin of the funds must be confirmed by the customs of the foreign country. And upon the investor's arrival to Kuwait, it must obtain another approval from the Kuwaiti customs

> *Kuwait has a fair and independent judiciary that is well worth praise and appreciation for the landmark judgments in all the branches of law inscribed in the Books of History of Kuwait. The State of Kuwait is established on the principle of constitutional legitimacy and through its Constitution and its concern for the rule of justice in society.*

- With regard to the issue of settling disputes of foreign investors within the State of Kuwait, pursuant to the Kuwaiti economic laws, as well as the Direct Investment Promotion law, Kuwaiti courts are the competent judicial authority to settle disputes arising out of this. Unless there is a clear and direct agreement to choose arbitration as a judicial body to resolve and settle foreign investors disputes, whether it is local or international arbitration.

- The Kuwaiti Judiciary is a stronghold fortress for the protection and preservation of the rights of citizens and foreigners. Kuwait has a fair and independent judiciary that is well worth praise and appreciation for the landmark judgments in all the branches of law inscribed in the Books of History of Kuwait. The State of Kuwait is established on the principle of constitutional legitimacy and through its Constitution and its concern for the rule of justice in society. The Constitution has established a judicial authority operated by the courts in the name of the Amir of the State, for which the Constitution guarantees full independence. In accordance with the Constitution, judges, in administering justice, are

not subject to any authority to enforce the rules of justice and equity, given that "Justice is the basis of rule" and to safeguard and guarantee the rights and liberties.

- The Kuwaiti courts of all types and degrees exercise their functions in resolving disputes where the right of litigation is guaranteed to all and every person based on procedures, and controls set forth by the law for exercising such right. There is Court of First Instance (the Plenary Court), the Court of Appeal in its various circuits, which considers the challenges of appeal filed before it, and the Supreme Court (the Court of Cassation), which is competent to adjudicate appeals against the judgments rendered by the Court of Appeal filed on basis of valid legal grounds.

- The legislator has been keen to establish the Constitutional Court to adjudicate disputes over the constitutionality of the laws. There are several judicial rulings have been rendered to the effect of invalidating some laws. By virtue of the procedures set forth by the law, it ensures facilitation of the litigation process in order to achieve security and stability in Kuwait. The Ministry of Justice in Kuwait has a number of e-services that help facilitate litigation procedures through the Kuwait Courts e-portal, where the lawsuit can be filed electronically, and followed up without the need for personal follow-up within the courts.

- It is preferable to seek the services of local law firms, as they are more familiar with the legal and executive procedures.

> *Exemption from income tax or any other taxes for a period not exceeding ten years from the date of actual operation of the licensed investment entity.*

- As for the matter of enforcement of foreign judgments, this was regulated by Article (199) of Law No. 38 of 1980 promulgating the Code of Civil and Commercial Procedures, by authorizing the execution of judgments and orders rendered by a foreign country in Kuwait, in accordance with the conditions prescribed in that foreign country to implement those judgments rendered in Kuwait. The enforcement order shall be filed before the Plenary Court. The enforcement order may not be executed until after the verification of the following:

1) The said judgment or order is rendered by a competent court in accordance with the laws of the issuing country.

2) The parties to the litigation subject of foreign judgment have been duly announced to attend and legally represented in the sessions.

3) The said judgment or order acquires force of res judicata in accordance with the laws of the issuing court.

> *The foreign investor under direct investment system shall be exempted inside Kuwait- in whole or in part - from taxes, customs duties or any other charges, which may be imposed on the imports required for direct investment purposes*

4) That it does not conflict with a judgment or order previously rendered by a court in Kuwait, and does not contain anything contrary to morals or public order in Kuwait.

In addition, this provision shall also apply to the awards of arbitrators rendered in a foreign country. However, the arbitrators' award shall be made in a matter permissible for arbitration under the Kuwaiti law and enforceable in the country in which it was rendered, subject to Article 200 of the same law.

Moreover, the documents approved in a foreign country may be ordered for enforcement in Kuwait under the same conditions stipulated in the law of that country for the enforcement of the approved documents in Kuwait. As stated in Article 202 of the aforementioned law and vice versa with regard to Kuwaiti judicial rulings where international treatment is based on the principle of reciprocity.

With the new economic birth in Kuwait, a specialized law has been enacted to promote and attract foreign direct nvestment. The said Law No. (116) of 2013 included several advantages for the benefit of the foreign investor within Kuwait, which are provided for in Article (27) as follows:

1) Exemption from income tax or any other taxes for a period not exceeding ten years from the date of actual operation of the licensed investment entity.

2) Exemption of every expansion of the licensed investment entity in accordance with the provisions of this law from the same taxes set forth in the previous paragraph for a period not less than the period of exemption granted to the original investment entity, from the date of commencement of production or actual operation of that expansion.

3) The foreign investor under direct investment system shall be exempted inside Kuwait- in whole or in part - from taxes, customs duties or any other charges, which may be imposed on the imports required for direct investment purposes as follows:

   a. Machinery, tools, equipment, means of transport and other

technological devices.

b. Spare parts and maintenance supplies for the items mentioned above.

c. Commodities, raw materials for partially manufactured goods, and packing and packaging materials. The investor may not perform any kind of disposition thereof, by either sale, exchange or assignment, nor may it use them for purposes other than the purpose for which it was imported before elapse of five years after date of its notification of exemption from fees.

4) Use of land and property allocated to the Authority or under its supervision or management.

5) Permissibility to use foreign labor necessary for investment.

Article (29) of the law specifies the procedures for applying for these benefits, where the foreign investor shall submit to the Kuwait Direct Investment Promotion Authority an application for all or some of the benefits stipulated therein, for review and consideration by the Authority in order to ascertain the fulfillment of the terms and conditions, subject to the following criteria:

a. The volume and quality of products and services provided.

b. The need of the local and GCC markets for direct investment and its contribution to economic diversification.

c. Transfer and resettlement of technology, modern management methods and advanced practical experience to the State of Kuwait.

d. Increase of national exports.

e. Positive environmental yield.

f. Contribution to the development of areas that lack to projects.

g. The extent to which services are provided to the community outside the framework of the project or the economic activity being carried out.

h. Seeking technical, professional and consultancy services of a national character.

i. Creation of job opportunities for national employment and provision of training thereon.

j. Use of national products.

With regard to double taxation, Kuwait and China have concluded an agreement that aimed at avoiding double taxation between the two countries and preventing financial evasion with respect to taxes on income and capital. There are several other agreements between China and Kuwait concerning investment, trade, sports, education, economy, diplomatic passports, air transport, oil and gas, and the public works.

Key Changes under the Revised Corporation Code of the Philippines

The corporate legal framework in the Philippines recently underwent substantial changes as part of the efforts of the government to ease doing business in the country. In particular, the Revised Corporation Code of the Philippines (the "RCC") was enacted earlier this year on February 20, 2019 to repeal in its entirety the old Corporation Code (the "OCC"), which dates back to 1980. It can be seen as a move to modernize corporate practices while strengthening corporate governance.

Miriam Rose Ivan L. Pereira

Oh-Ebashi LPC & Partners

Key changes introduced by the RCC include the following.

1. Simpler Incorporation Requirements

Section 10 of the RCC now permits any person, partnership, association or corporation, singly or jointly with others (but not more than fifteen (15) in number), to organize a corporation for any lawful purpose. This provision removed the incorporation requirement to have at least five (5) individual incorporators, a majority of whom should be residents of the Philippines. However, please note that the Securities and Exchange Commission ("SEC") has recently interpreted Section 10 to mean that (a) there should still be at least two but not more than fifteen (15) incorporators to set up a domestic corporation, and (b) as further discussed later, only a one-person corporation may have a single shareholder and a sole director.

2. Corporate Incorporators Now Allowed

Section 10 of the RCC also now allows entities, including foreign corporations, to be incorporators. Previously, only natural persons of legal age may incorporate a company. In this regard, the SEC has clarified that incorporators may now consist of any combination of (a) natural persons, (b) SEC-registered partnerships, (c) SEC-registered domestic corporations or associations in good standing, and/or (d) foreign corporations.

3. Simpler Governance

A minimum of five (5) directors is no longer required to govern a corporation. The requirement that a majority of such directors be residents of the Philippines has also been dispensed with. Thus, subject to the application of special governance rules that require the election of independent directors, an ordinary corporation may now just have one (1) director, or several directors up to fifteen (15) directors.

4. New Residence Requirement for Treasurers

The treasurer of a corporation, who may or may not also be a director, must now be a resident of the Philippines. With respect to other key officers of a company, the RCC kept the requirement that the president be a director, and that the secretary be a resident and citizen of the Philippines. The RCC also still permits a person to hold two (2) or more positions concurrently, and retains the exception that the president

cannot also act as the secretary or the treasurer at the same time.

5. Special Rules for Corporations Vested with Public Interest

Corporations vested with public interest include the following:

(a) Corporations subject to reportorial requirements under Section 17.2 of the Securities Regulation Code, namely those whose securities are registered with the SEC, corporations listed for trading with an exchange, or those with assets of at least Fifty Million Pesos (Php 50,000,000) with two hundred (200) or more shareholders, each holding at least one hundred (100) shares;

(b) Banks, quasi-banks, nonstock savings and loan associations, pawnshops, corporations engaged in money services, preneed, trust and insurance companies, and other financial intermediaries; and

(c) Other corporations engaged in businesses vested with public interest similar to the above, as may be determined by the SEC, taking into account factors that are consistent with the purpose of requiring the election of an independent director, such as the extent of minority ownership, type of financial products or securities issued or offered to investors, public interest involved in the nature of business operations, and other similar factors.

Special governance rules have been provided for the foregoing corporations. First, at least 20% of its board must be independent directors. Second, it must have a compliance officer. Lastly, they are required to submit additional annual reports to the SEC such as a directors' compensation report, and a directors' appraisal or performance report, including the criteria used to assess each director. Although encouraged, these reports are not mandatory for regular corporations.

6. One Person Corporation ("OPC")

The RCC introduced a new type of corporate vehicle designed for a solo stockholder. An OPC may be formed by a single stockholder, which must be a natural person (including a foreign national), trust or an estate. As mentioned earlier, the SEC stressed that only an OPC may have a single shareholder and a sole director.

A regular corporation can opt to be converted into an OPC if a single stockholder acquires all the shares thereof. The opposite is also possible, whereby an OPC is converted into an ordinary stock corporation.

OPCs are subject to lesser governance requirements, e.g., no requirement to submit and file corporate bylaws. Also, although the single stockholder may not act as the president and the corporate secretary at the same time, he/she may act as the treasurer of the corporation subject to a bond requirement. Please note, however, a sole shareholder claiming limited liability has the burden of affirmatively showing that the corporation was adequately financed, and if he/she cannot prove that the property of the OPC is independent of his/her personal property, he/she can be held jointly and severally liable for the debts and other liabilities of the OPC. Moreover, the principles of piercing the corporate veil (e.g., the separate corporate legal entity is disregarded if it is used to shield against liability for any wrongdoing) applies with equal force to OPCs.

7. No More Minimum Subscription and Paid-Up Capital Requirements

The RCC retained the rule that there is generally no minimum capital stock requirement for stock corporations, except as otherwise specifically provided by special law. Significantly, however, it boldly removed the minimum subscription and paid-up capital requirements under Section 13 of the OCC, namely, that at least 25% of the authorized capital stock must be subscribed at the time of incorporation, and at least 25% of the total subscription must be paid upon subscription. It should be noted though that, in relation to an increase of the authorized capital stock, these minimum subscription and paid-up capital requirements still apply with respect to the increase in capital.

8. Arbitration Alternative for Intracorporate Disputes

In recognition of the benefits of alternative forms of dispute resolution in the context of corporate affairs, the RCC now provides a statutory basis for inserting an arbitration agreement in the articles of incorporation or bylaws of a corporation to resolve intracorporate disputes between the corporation and its stockholders that arise from the implementation of the articles of incorporation or bylaws, or from intracorporate relations. Moreover, when an intracorporate dispute is filed with a Regional Trial Court, the court is obliged to dismiss the case before the end of the pretrial conference, if it determines that an arbitration agreement is written in the corporation's articles of incorporation, bylaws, or even in a separate agreement. It should be noted, however, that under the RCC, unlike the standard practice of allowing the parties to choose their arbitrators, the power to appoint the arbitrators forming the arbitral tribunal is required to be given to a designated independent third party. The SEC will issue rules and regulations to implement this new arbitration option.

9. Power to Enter into Partnerships, Joint Ventures, etc.

The RCC now expressly allows a corporation to enter into a partnership, joint venture, merger, consolidation or any other commercial agreement with natural and juridical persons. Previously, the SEC has opined that a corporation cannot enter into a partnership contract with an individual or another corporation, unless it complies with the following conditions: (a) the authority to enter into a partnership is expressly conferred by its charter or articles of incorporation; (b) the nature of the business venture to be undertaken by the partnership is in line with the business authorized by the charter or articles of incorporation of the corporation, and (c) in the case of foreign corporation, it must obtain a license to transact business in the Philippines in accordance with the OCC. The SEC has also opined that a corporation may enter into a joint venture agreement only if it is in line with the business authorized by its charter.

10. Indefinite Corporate Term

Unless otherwise provided in their articles of incorporation, corporations can now enjoy perpetual corporate existence. The term limit of 50 years was removed.

11. Effects of Non-Use of Corporate Charter and Continuous Inoperation

The RCC clarified the effects and procedural steps concerning corporations

that cannot commence or revive their business operations for whatever reason. If a corporation does not commence its business within five (5) years (previously, just two (2) years) from the date of its incorporation, its certificate of incorporation shall be deemed revoked as of the day following the end of the five (5)-year period. As to a corporation that has commenced its business but subsequently becomes inoperative for at least five (5) consecutive years, the SEC may consider it delinquent after due notice and hearing. As a new rule, a delinquent corporation is given two (2) years to resume operations and comply with all the requirements prescribed by the SEC to obtain an order lifting its delinquent status. Failure to comply with the requirements and resume operations within the period given by the SEC shall cause the revocation of the corporation's certificate of incorporation. The previous exception for a failure by a corporation to organize, commence operations or carry out the construction of its works, or continuously operate due to causes beyond its control was dropped from the RCC.

12. Revival of Corporate Existence

The RCC now permits a corporation whose term has expired to apply for a revival of its corporate existence, together with all the rights and privileges under its certificate of incorporation, and subject to all of its duties, debts and liabilities existing prior to its revival, including, for example, any outstanding penalties for any non-compliance. Moreover, unless otherwise provided in its application for revival, it will also have perpetual existence upon its revival. This revival procedure offers a practical solution to corporations with fixed terms that inadvertently forget to extend their terms. Previously, the SEC has opined that it was mandatory for a dissolved corporation (e.g., one whose term has expired) to liquidate its assets and liabilities pursuant to Section 122 of the OCC.

13. Corporate Dealings with Directors and Officers

To strengthen corporate governance, Section 31 of the RCC expanded the rules governing self-dealing directors and officers to cover contracts with spouses and relatives within the fourth civil degree of consanguinity or affinity.

Contracts of a corporation with one or more of its directors, officers or, now, including their spouses and relatives within the fourth civil degree of consanguinity or affinity, are voidable at the option of such corporation, unless all of the following conditions are present:

(a) the presence of such director in the board meeting in which the contract was approved was not necessary to constitute a quorum for such meeting;

(b) the vote of such director was not necessary for the approval of the contract; and

(c) the contract is fair and reasonable under the circumstances.

With respect to a potential contract involving a director, if any of the above conditions is absent, then the subject contract may still be ratified by the vote of the stockholders representing at least 2/3 of the outstanding capital stock in a meeting called for the purpose, provided that full disclosure of the adverse interest of the director involved is made at such

meeting, and the contract is fair and reasonable under the circumstances (making this condition indispensable).

For corporations vested with public interest, material contracts must be approved by at least 2/3 of the entire membership of the board, including at least a majority of the independent directors.

As to contracts with officers, they must have been previously authorized by the board of directors.

14. Electronic Notices and Remote Participation in Meetings

The RCC now promotes the use of technology, e.g., electronic notices of stockholders' meetings, and board meetings conducted by remote communication such as videoconferencing, teleconferencing or other alternative modes of communication. Voting in stockholders' meetings may also be done by remote communication or in absentia, if allowed by the bylaws or a majority of the board of directors. For corporations vested with public interest, directors may be voted by stockholders by remote communication or in absentia even without a provision in the bylaws authorizing such manner of voting. The SEC will issue rules and regulations governing participation and voting through remote communication or in absentia, taking into account the company's scale, number of shareholders or members, structure, and other factors consistent with the protection and promotion of shareholders' meetings.

15. Local Corporate Political Donations Now Allowed

The RCC amended Section 36(9) of the OCC, which prohibited corporations, domestic or foreign, from donating to any political party or candidate, or giving donations for purposes of partisan political activity. The RCC now expressly bans only foreign corporations from giving such donations.

Companies with existing businesses in the Philippines and those looking to invest therein should consider the above changes, including those that could help simplify corporate structures or procedures, or improve corporate governance practices. Potential investors should also monitor the rules and regulations that the SEC will issue to implement the significant changes introduced by the RCC.

> *"The RCC now permits a corporation whose term has expired to apply for a revival of its corporate existence, together with all the rights and privileges under its certificate of incorporation, and subject to all of its duties, debts and liabilities existing prior to its revival, including, for example, any outstanding penalties for any non-compliance. Moreover, unless otherwise provided in its application for revival, it will also have perpetual existence upon its revival."*

Female Lawyer from Brazil:
Cristina Salvador
Founder Partner at Legal Leaders

1) What would you advise investors and entrepreneurs in business transactions from a legal and commercial stand point, particularly with regard to international businesses?

My piece of advice is that both investors and entrepreneurs work on a Business Plan that is appropriate to their business, to properly understand if the product/ service will be well accepted within the location(s) selected. In addition, seeking to understand particulars regarding Intellectual Property/ Specific Regulations and all criteria in connection with business law, since corporate structures and tax planning strategies are of utmost importance for transactions to develop. My personal experience allows me to state that without proper legal/accounting and technological advisory services, no business tends to succeed in today's environment, which tends to process automation and reduced profit margins.

2) Marketing & business development in law firms. what are the key challenges in marketing law firms and sustaining business development?

The current rule of thumb for law firms is to modernize their activities. Considering law offices, the possibility of acquiring sufficient automation to work cooperatively with both Digital Marketing and the development of new clients is much easier for large firms than for medium-

sized firms, which in Brazil are barred from seeking foreign investment to face the costs of modernization of legal services. As for "boutiques" (i.e. small offices with specific capabilities and expertise), the scenario is not quite promising either, considering the aforementioned need comprising the "modernization of legal services", which costs investment, but is also affected by the competition posed by on line legal services.

3) Business development within law firms is becoming critical for continued growth as competition for professionals with the proven ability to satisfy clients and bring in new business continues to escalate. how can law firm partners overcome this and generate revenue?

There is a trend towards multidisciplinary performance by lawyers. The growing number of demands, reduced prices and alternative charging arrangements propel law firms to become multidisciplinary professional hubs, seeking innovative practices as well. Worth mentioning that the firms are encouraged not because of its competitors, but because of the needs of its customers. In addition, we should also highlight the intrapreneurship matter, precisely because it is a positive sign of decentralization, since employees are given the opportunity and initiative to improve internal processes and even approach techniques, creation of new business and client acquisition. The lawyers of the future should be good managers and have marketing skills, captivating clients and be entrepreneurship-oriented.

4) Demand for legal services has stagnated, leaving firms struggling to earn new business and stay profitable. In your opinion, which is the most effective business development strategy for law firms to follow?

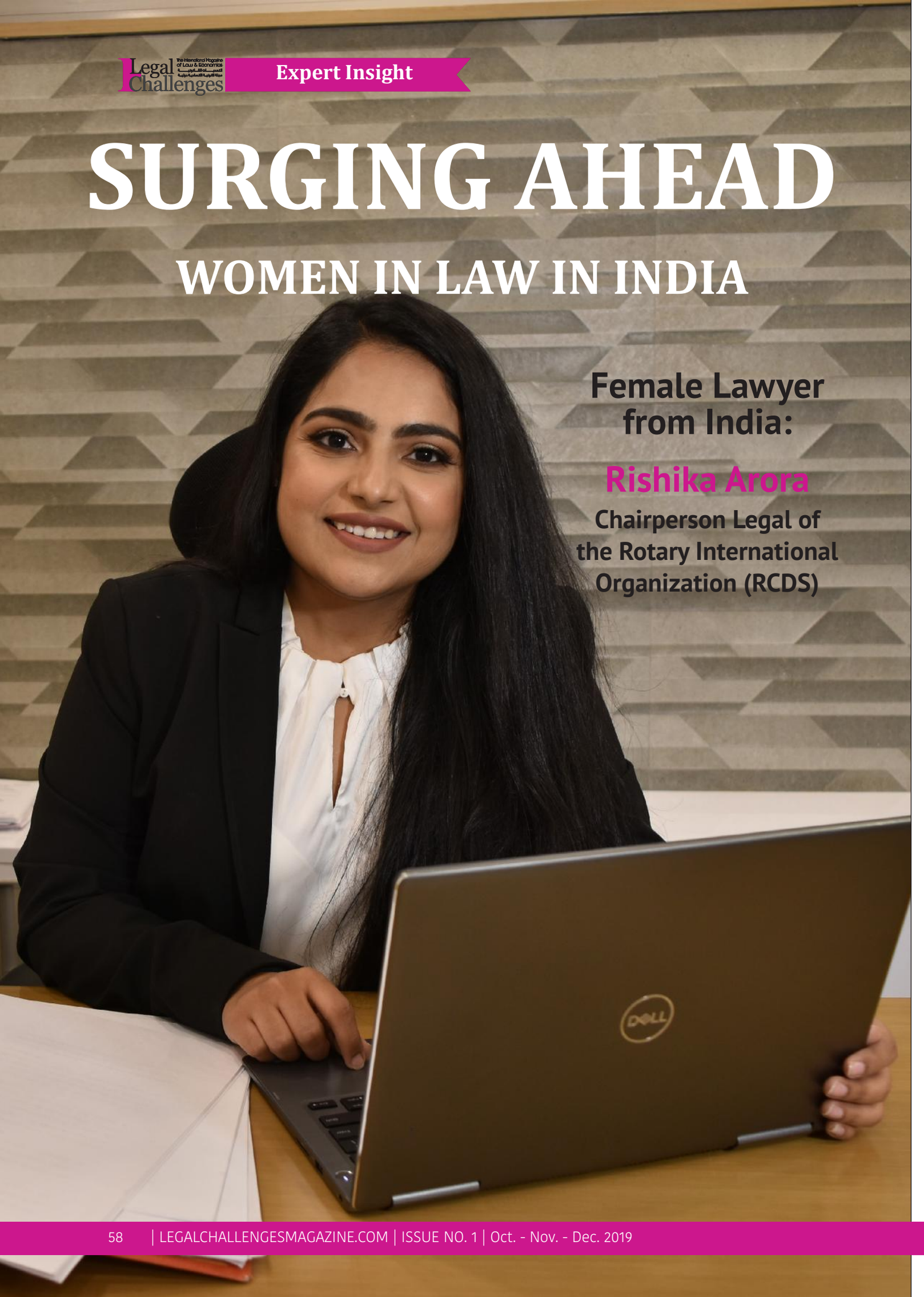
I think we can envisage two scenarios at this point: (i) as the lawyer's profession is changing and society demands new ways of providing legal services, it is critical that law firms follow this trend and drive in-depth internal changes to continue playing a relevant role. This move would represent a "deconstruction" of the legal profession as a whole; and (ii) there have never been as many opportunities for lawyers to work as we now have in this digital and technological age (worth pointing out, indeed, that virtually all areas of law are increasingly faced with challenges arising from innovations that are developed steadily.

5) In your opinion, What factors does a client take into consideration when choosing a law firm ? What are the client's key preferences on what matters – and what doesn't – when it comes to choosing law firms?

Considering that lawyers currently have a monopoly in regard to legal knowledge, in my view clients who are given basic legal knowledge will be able to realize that they need legal assistance upon identifying an issue, thereby creating a demand. It is as if access to information gives them a real ability to know new issues, to which seeking solutions becomes a must. Furthermore, I believe the preparation of booklets and guides made available over the internet is one of the most effective ways to get potential customers' attention. Clients notice and know that when law firms get information, they are a lot closer to knowing their reality and this is key for choosing this or that law firm.

SURGING AHEAD

WOMEN IN LAW IN INDIA



Female Lawyer from India:

Rishika Arora

Chairperson Legal of the Rotary International Organization (RCDS)

Written By:

Evita Shekhar Sood

Women, Law and Success, three words that sound paradoxical when used in one sentence for the Eastern Cultures. It has been a revolutionary struggle for women to make a mark and be seen as economy drivers in various fields. Representation of women in law has been especially challenging. Breaking this stereotype is Rishika Arora, 30, a young and dynamic advocate from India. She is overcoming barriers of gender and race bit by bit and thriving to be in the top spot of the International Legal Fraternity.

Her CV reads like an Edgar Allen Poe's most enchanting poem. Her journey excels from words to work and thoughts to actions. She is a litigating lawyer at the Delhi High Court, India. A philanthropist, a mentor and a teacher. She is also the pioneer member of the Commonwealth Lawyers Association as their Young Lawyers Representative of the Australasian Region. She had her first tryst with advocacy and empowerment at the age of 17. When in high school, she worked closely on the Ministry of Youth Affairs and Sports project on 'Adolescents' well-being and related issues. That set the course of her career. *"I was driven to make a change in the society, to be the voice of the weak and the underprivileged, and create social awareness amongst the masses"* **she says.**

With the aim to empower the weak and the marginalized, this young lady enrolled herself for a bachelor's degree in law at the prestigious Guru Gobind Singh Indraprastha University, New Delhi, India. Alongside she joined Women's Political Watch (WPW), an NGO committed to the cause of women empowerment and creating awareness about legal and voter rights. In the capacity of an advisor and trainer she sensitized women dwelling in the slums on their legal rights. She also conducted several sessions for the trainers and undertook voter awareness sessions.

Rishika tasted her first slice of the legal fraternity while working as a law researcher under Hon'ble Ms. Justice Indermeet Kaur at the judicature of Delhi High Court, India. In her words, "*Justice Indermeet Kaur was nothing short of being a superwoman. I strive to be as professional, strong and resilient as she is. I am in awe of the Iron Lady that she is and idolize her.***"**

"It has been a revolutionary struggle for women to make a mark and be seen as economy drivers in various fields. Representation of women in law has been especially challenging. Breaking this"

To establish herself as an International Lawyer, the young enterprising advocate went for Masters in Law to the esteemed Columbia Law School, New York, U.S.A. While there, she worked with the Volunteer Lawyers for the Arts (VLA), a non-profit organization that provides legal aid for low income New York artists. Excited to have learnt new skills and having gained a multi-cultural perspective, she surged into her legal career back in India with much passion and commitment. "*I was really excited to come back to India and start work on my dream project of providing legal aid to the lower income groups and thereby empowering them to strive for a better life. It took me a couple of years to finally shape up and launch 'The Legal Cell' with fellow lawyers. As one of the founders, it gives me immense joy and satisfaction to share that in its nascent stage, The Legal Cell has been able to create a substantial impact in the society. It is working very closely with organizations like the Rotary International, Laadli Foundation, Women's Political Watch, The Earth Saviours Foundation and Policy Foundation to name a few. We have the ambition to extend our services pan India with a pool of capable advocates and allied professionals*" **is her passionate reflection.**

> ***"I was driven to make a change in the society, to be the voice of the weak and the underprivileged, and create social awareness amongst the masses"***

As the youngest Chairperson Legal of the Rotary International Organization (RCDS), she is humbled by her own experience and thanks her family for standing by her like a rock and giving her the courage to achieve and overcome all odds. She reflects on the difficulties and challenges faced by her as being a part of the litigation system "*I take courage and inspiration from my boss Advocate Mr. Pawanjit Singh Bindra who has placed immense faith in me and pushed me beyond my limits to achieve and excel. He has been extremely supportive of my philanthropic pursuits. I look up to him and his counsel. Whenever I am in doubt or feeling under confident, he would say reassuringly to go fight and leave my fears to the wind. I have*

> *"I take courage and inspiration from my boss Advocate Mr. Pawanjit Singh Bindra who has placed immense faith in me and pushed me beyond my limits to achieve and excel. Whenever I am in doubt or feeling under confident, he would say reassuringly to go fight and leave my fears to the wind*

been able to carve my independent identity under his able supervision and guidance."

"*Legal fraternity in India has been largely male dominant. It is progressive thinking men such as Mr. Pawanjit Singh Bindra that encourage young women lawyers like me and give them opportunities to grow and flourish. It has been a struggle for Indian women to enter into litigation and to battle it out with gut and glory. I feel lucky to be a part of the first generation women lawyers in litigation to reap the fruits of the predecessors' achievements.*" **There has been a huge influx of women in litigation in the recent times, some women have also contested in the Bar Council elections. Indian women lawyers have made a mark for themselves in the legal fraternity at the national and international level.**

"*Although we still have a long road to travel before we can have an equal and just representation of women advocates in litigation*" **says Rishika recollecting that many of her peers dropped out of litigation and pursued other courses of law owing to several barriers faced by them. There seems to be a glass ceiling in the legal fraternity for women in terms of pay disparity and gender discrimination. It can be demotivating and heartbreaking for a professional, especially when one has just started the course of their career. However, it is important to keep your head in the game and bounce back with resilience and twice the strength.**

"*I think we need to educate and empower our girls and give them the power to chart their own journey. Education has changed the Indian legal scape with more and more women opting for law as their chosen profession. We need to form groups of women lawyers who help, support, motivate and inspire each other. Gone are the days when a marginalized group would carry out protests and demonstrations to ask for their rights. The key is to be strong and determined in our pursuit. We cannot and should not let a few bad experiences deter us from our path. One should take each day as a new beginning and every challenge as an opportunity in disguise*" **sums up the resolute lawyer. Such spirited words have the power to move boulders and women in law are all set to play this monumental role.**

> *Gone are the days when a marginalized group would carry out protests and demonstrations to ask for their rights. The key is to be strong and determined in our pursuit. We cannot and should not let a few bad experiences deter us from our path*

Lawyer from Singapore: Max Ng

Managing Director | Advocate & Solicitor

Law Firm

Talk a little bit about you.

I have been practicing law for more than 20 years, and I am currently the Managing Director of Gateway Law Corporation, which is based in Singapore.

We are a regional legal practice with offices and people in multiple countries in the region. My practice revolves around the commercialization of intellectual property, arbitration and other forms of litigation, general counselling and preparation of specific contracts in the areas of licensing, franchising and technology law.

What is the issues Lawyers need to aware of when they start their own firms? Challenges they May face and ways to resolve. Things that can helps new firm to grow faster and strongly (this will cover the use of technology in legal practice and HR issues and complain issues)

Starting your own firm can be daunting and exhausting at first because everything falls under your responsibility. But once you build up a good name for your practice and establish a good relationship with your clients, it gets a little easier.

The best advice that I can give is to pick a niche area and develop your business around it. I started Gateway around my core expertise area of Intellectual

Property (IP) Law, and now we are one of the most well-regarded legal practices for IP. Being confronted with practice-related issues that you have already worked on before gives you great advantage; it will also give you more time to work on the other aspects of practice such as human resource, business development, marketing, etc. As for other mundane things in the office like paperwork, filing, and collections, having an organized database that stores all relevant information would make the day-to-day administrative work a lot easier.

How to market a new firm? How to get client?

When it comes to marketing, word of mouth and referrals are a great way to start.

Since you have just started a new law firm, first impressions are very important.

Being responsive to clients and prospects is a great pitch, but making a good impression gets you close to a home run. By doing this, clients/prospects can put in a good word for you, and maybe even suggest your firm to other clients.

Getting acquainted with other lawyers would also be beneficial in the long run.

Knowing other lawyers inside and outside your niche area is a great way to get connected. You can also attend conferences and join associations/ organization's to network and meet new people. In doing so, you try to make sure that every connection you make translates into referrals.

Starting your own firm can be daunting and exhausting at first because everything falls under your responsibility. But once you build up a good name for your practice and establish a good relationship with your clients, it gets a little easier.

Court Rule in Banking Sector

The Singapore High Court ("Court") considered whether a bank owed any investment advisory duty to its customer in either contract or tort, and found on the facts of this case that no such duty arose. The Court also alluded to key factors it would consider to determine whether a duty of care arises beyond the contractual duties owed by a bank to its customer.

BACKGROUND

The Plaintiff had made substantial investments through the Bank via company

The company account with the Bank was funded by a credit facility. Drew down on this facility, partly in Japanese Yen ("JYP"), and invested in dual currency investment products ("DCI") and knock-out discount accumulators ("KODA").

When the financial crisis in 2008 unfolded, the Australian dollar ("AUD") rapidly depreciated against the JYP. As such, Plaintiff was affected by both the fall in the value of his investments (which were in AUD), and the drawdown on his credit facilities (which were in JYP). This caused a collateral shortfall, which prompted the Bank to give Plaintiff a close out notice to top up his collateral in four hours. Plaintiff did not do so, and the Bank closed out all of company open positions, causing Plaintiff to lose about US$26 million.

When the financial crisis in 2008 unfolded, the Australian dollar ("AUD") rapidly depreciated against the JYP. As such, Plaintiff was affected by both the fall in the value of his investments (which were in AUD), and the drawdown on his credit facilities (which were in JYP). This caused a collateral shortfall, which prompted the Bank to give Plaintiff a close out notice to top up his collateral in four hours. Plaintiff did not do so, and the Bank closed out all of company open positions, causing Plaintiff to lose about US$26 million. Plaintiff and company sued the Bank for an alleged and tort. With regard to the scope of both the duties allegedly owed in contract and tort, Plaintiff pleaded that the Bank owed him several subduties:

(a) To take reasonable care when giving advice and provide Plaintiff with information that met with his investment objectives;

(b) To monitor and manage the investments in company account, as well as the account's risk exposure; and

(c) With respect to the scope of the Bank's contractual duties, to provide a reasonable period for the provision of collateral top-ups.

THE HIGH COURT DECISION

The Court found that the Bank did not owe any of the alleged duties in either contract or tort, and even if these duties arose, the Bank had not breached them.

Duties not owed in contract

In relation to the Bank's alleged duty to provide advice that met with Plaintiff investment objectives, and to monitor company account, the Court found that the contractual arrangement between the parties did not point to any advisory or management relationship. Plaintiff had accepted under the account documents that he was responsible for managing the account, and the

Bank had expressly disclaimed any responsibility for Plaintiff investment decisions. Further, the account was a non-discretionary account, meaning the Bank was to manage assets only in accordance with Plaintiff instructions.

In relation to the Bank's alleged duty to provide a reasonable period for the provision of collateral top-ups, the Court rejected Plaintiff attempt to imply an obligation on the Bank's part to this effect. This was because there was no gap in the contract between parties permitting the implication of this term. In particular, Clause 8 of the credit facility application form expressly reserved the Bank's right to determine the length of time to be given where a collateral top-up was sought.

Duties not owed in tort

The Court referred to the Court of Appeal decision proposition that a bank's tortious duties to its customer would not normally extend beyond its contractual duties, unless the bank's conduct had deviated from its contractually defined role. Given that the Bank owed Plaintiff none of the pleaded obligations by way of contract, the Court held that it would require cogent evidence to establish that the Bank had assumed these responsibilities through its representations and conduct. The Court concluded that there was no such evidence. In this regard, the Court found that the Bank did not make any representation to advise Plaintiff on his portfolio, nor did it manage the account on his behalf. The Court also found that contrary to Plaintiff contentions, the Bank's internal documents did not create any obligations between the Bank and Plaintiff, and could not serve as representations to Plaintiff since they were not even shown to Plaintiff. Further, the Court found that Plaintiff was very active in managing the account, and stuck to his investment strategies even against the Bank's recommendations. As such, it held that the Bank did not come under a duty to manage the account or advise Plaintiff on his portfolio.

> *The Court found that the Bank did not owe any of the alleged duties in either contract or tort, and even if these duties arose, the Bank had not breached them*

On the Bank's alleged duty to advise Plaintiff, the

Court drew a distinction between the giving of advice, and the provision of information and held that the Bank only provided Plaintiff with information, and gave no advice amounting to a representation.

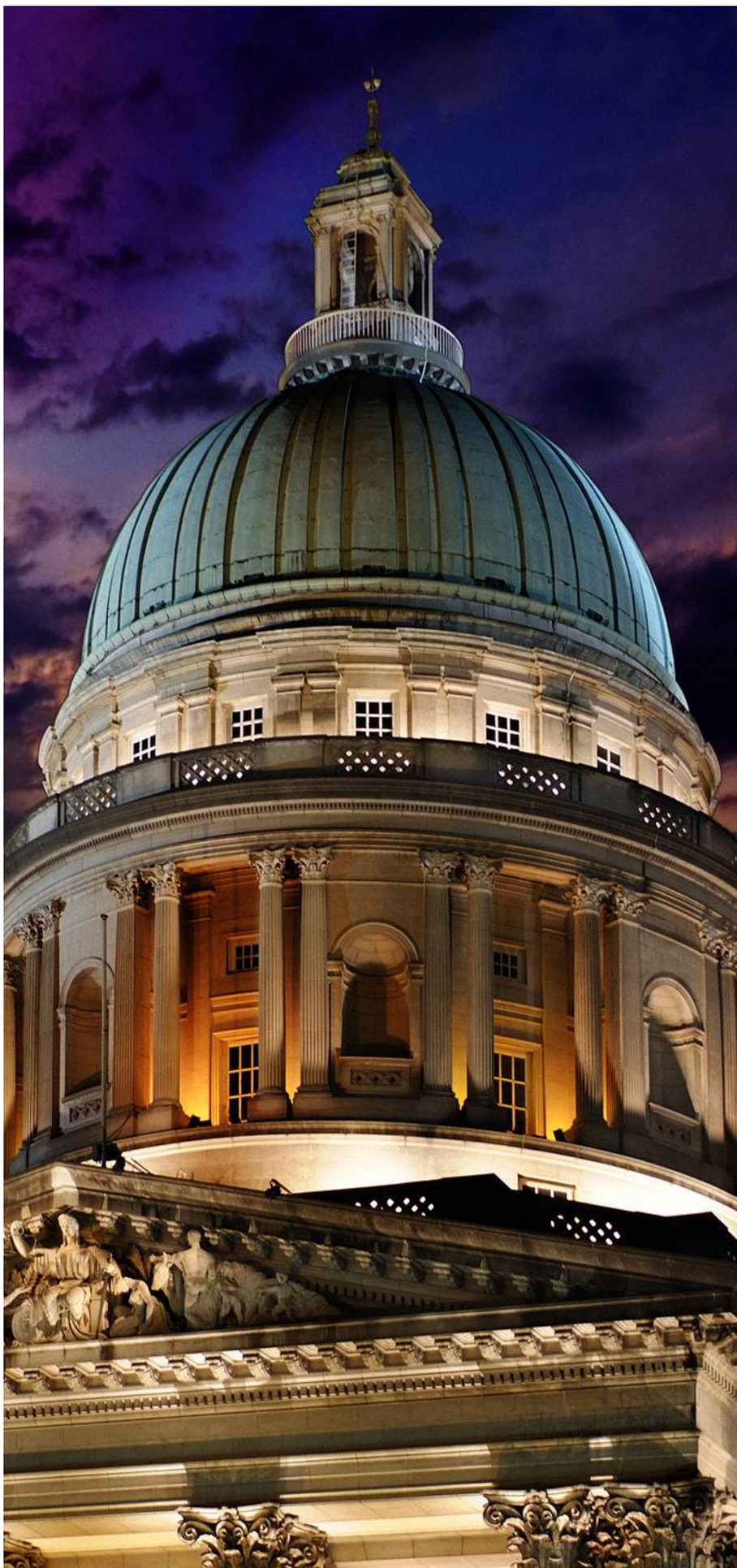
Bank would not have breached its duty of care to Plaintiff

The Court held that the Bank did not breach its duty to advise Plaintiff on products that suited his investment objectives. The Court found that the Bank's recommendations of the KODAs and DCIs cohered with Plaintiff investment objective. The Court further held that any duty of care owed by the Bank would generally be limited to bringing the risks of the relevant investment strategies to Plaintiff attention, unless Plaintiff could point to some vulnerability on his part. In this regard, the Court found that Plaintiff was not vulnerable, as he had previously held a senior position at a top stockbroking house in Malaysia. As such, the Bank had discharged its duty by

explaining the features and risks associated with KODAs and DCIs during calls with Plaintiff.

The Court held that the Bank did not breach its duty to advise Plaintiff on the risk exposure of his credit facility, or to monitor this risk. Plaintiff had applied for the credit facility of his own accord, and gave instructions to draw down on the facility. The resulting increase in collateral shortfall risk was therefore of Plaintiff doing. The Bank had brought the collateral limit to Plaintiff attention, and in any event, Plaintiff was familiar with how these limits worked. The Bank had also raised to Plaintiff warning signs as the financial crisis developed, but Plaintiff remained steadfast in his investment strategy. The Court further held that the Bank did not breach its duty in failing to notify Plaintiff of the collateral shortfall in the account at an earlier date, because the credit facility application forms clearly spelt out the need to maintain collateral value in the account and the Bank's right to impose a close out.

Therefore, Plaintiff had assumed the risk of a close out. The Court acknowledged the force of Plaintiff argument that the Bank had given an unreasonably short time to furnish additional collateral, but found that this was justified given the Bank's legitimate concerns in clamping down on Plaintiff aggressive investment strategy in the unfolding financial crisis.



Kuwaiti Female Lawyer
Areej Hamadeh

On 9th October 2017, the Court of Cassation overturned the judgment of the Court of Appeal, as the sub-appeal was rejected while the original appeal was accepted and that the appealed judgment was rejected and upheld, with keeping the Defendants under the obligation of payment of an amount of (only one million, three hundred ninety-four thousand, four hundred and fifty-nine dinars and 854 fils)

The Attorney/ Areej Hamadeh, in her capacity as an agent of the Appellant, explained in a statement that she had filed her lawsuit starting with keeping the Defendants under the obligation of payment of an amount of (only one million, three hundred ninety-four thousand, four hundred and fifty-nine dinars and 854 fils) on the basis that their legator has issued to them a documented notarized official declaration from Ministry of Justice in which he assigns by virtue of the declaration thereto all the property, under his possession, money, real estate, movable property inside and outside Kuwait and following the death of their testator, they were surprised that one of the testator's brothers has concluded exit contracts between him and their legator on his shares in many real estate two months before the testator's death which occurred without any paid amounts, then my principals filed an initial claim that was rejected and then appealed which supported first instance ruling with rejection of the appeal as well as upholding the appealed judgment. This judgment was unfair to my principals; therefore, I appealed the

judgment before court of cassation due to several reasons, the most important of which are the invalidity of the appealed judgment while the second reason is the violation of the right of defense and the third reason is deficiency in reasoning. The fourth reason is violation of the law and the error in its application. In light of this and referring to what is set forth in statement of claim before the court of cassation, hence, the judgment rendered by the court of cassation was in favor of our principals. As set out in the grounds of judgment, lawsuits are determined as per final requests that specify the scope of the case as we have provided in our statement of appeal, where the court of cassation has abolished the judgment of appeal based on the most important reason set forth in our statement of appeal, where the Court of Cassation confirmed the right of my principals in their case and to re-issue a judgment obligating the appellee to make payment for my principals in an amount of (only one million, three hundred ninety-four thousand, four hundred and fifty-nine Kuwaiti dinars and 854 fils), as well as keeping them under obligation to pay expenses and five hundred Kuwaiti dinars as actual attorney fees.

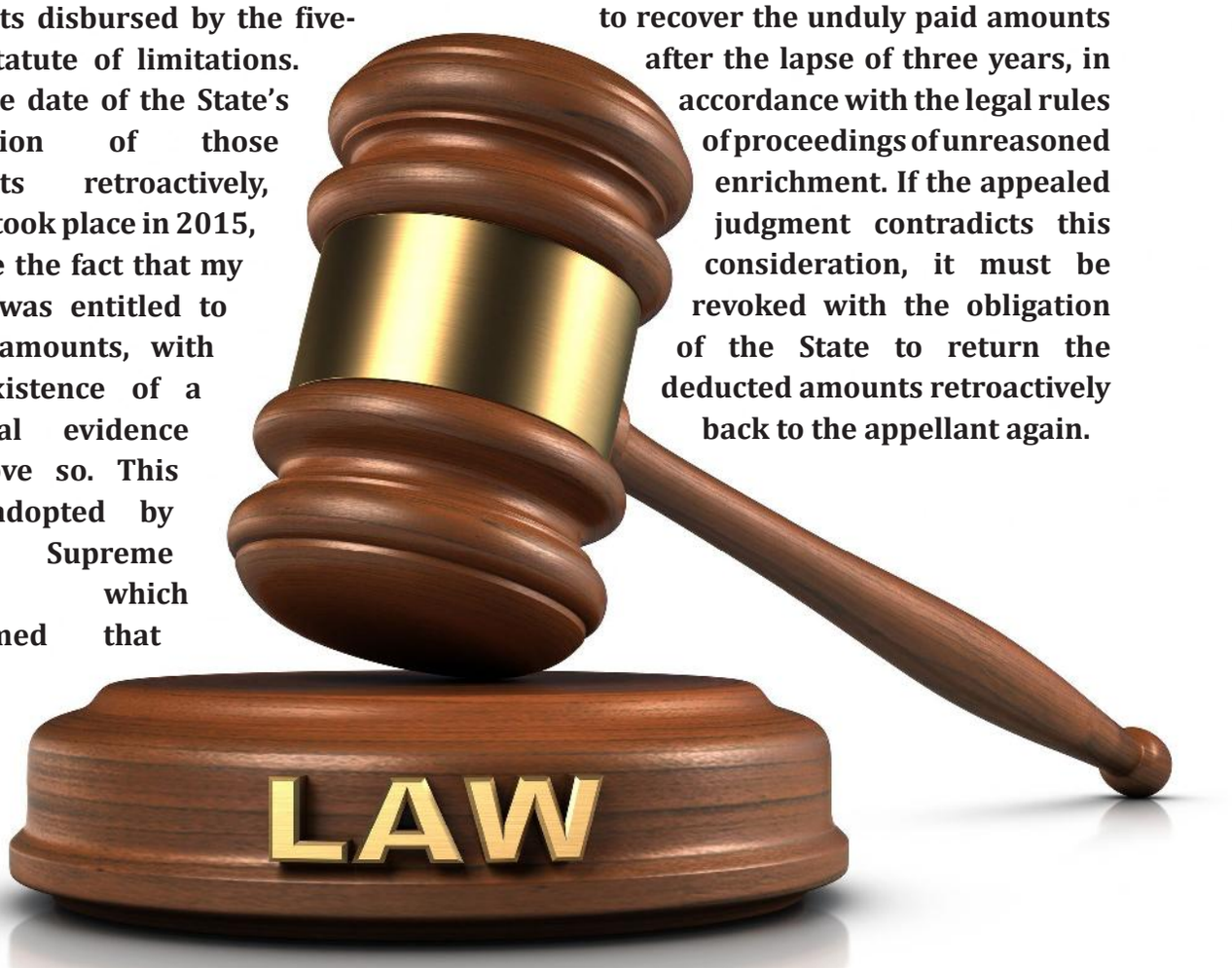
The Kuwaiti attorney, Areej Hamada, stated that she is very happy with her achievement after obtaining a final judgement. As she had pleaded before the Court of Cassation and submitted a memorandum of defense and a docket of documents containing all the documents confirming the proof and truth of her clients' withdrawal from the property inherited in the face of opponents. This has resulted in their entitlement in exchange for this withdrawal, which has been proven by the accounting expert assigned by the Kuwaiti Ministry of Justice. This does not prejudice what is established by documents that the third appellant has issued a check in this amount to the client's testator. It is established from the case documents that her clients did not receive this amount in exchange for withdrawal or the check issued in this regard.

Attorney, Areej Hamada, obtains a final ruling in favor of my client dropping the State's right to claim three-year- financial statute of limitations

The Kuwaiti Court of Cassation overturned the appealed ruling that a government entity had the right to deduct amounts retroactively after ten years, which had already been disbursed to my client for the period from 31/02/2005 to 02/02/2006, and ruled that the right of the State to do so has expired in accordance with the statute of limitation.

Attorney, Areej Hamada, filed an appeal to the Supreme Court to nullify the Appeal ruling that rejects the case because of the statute of limitation. The reason for the appeal was the existence of a deficiency in the reasoning. In explaining that, attorney, Areej Hamada, said that the appealed ruling confused between the resignation date of my client in 2005, which resulted in the dropping of the State's right to the amounts disbursed by the five-year statute of limitations. And the date of the State's deduction of those amounts retroactively, which took place in 2015, despite the fact that my client was entitled to these amounts, with the existence of a material evidence to prove so. This was adopted by the Supreme Court, which confirmed that the defence of attorney Areej Hamada is substantial, where the ruling of the Court of First Instance and the Appeal ruling overlooked a substantial defense submitted by the attorney Areej Hamada, which invalidates the ruling for the power of its influence on the judgment of the Court of Cassation. The Supreme Court considered this a deficiency in the factual reasons of the judgment. The reason for that is if a defence is submitted to the court with evidence, the court must consider the effect of the defence on the case. If it is productive, the court must assess the extent of its seriousness and proceed to examine it. If the court did not do so, its judgment is deficient and must be challenged for cassation without the need to discuss other aspects of defenses.

The Court ruled that the right of the State to recover the unduly paid amounts after the lapse of three years, in accordance with the legal rules of proceedings of unreasoned enrichment. If the appealed judgment contradicts this consideration, it must be revoked with the obligation of the State to return the deducted amounts retroactively back to the appellant again.



REGULATION (EU) 2019/881 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 April 2019

On ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act)

The Union European has already taken important steps to ensure cybersecurity and to increase trust in digital technologies. In 2013, the Cybersecurity Strategy of the European Union was adopted to guide the Union's policy response to cyber threats and risks. In an effort to better protect citizens online, the Union's first legal act in the field of cybersecurity was adopted in 2016 in the form of Directive (EU) 2016/1148 of the European Parliament and of the Council(9). Directive (EU) 2016/1148 put in place requirements concerning national capabilities in the field of cybersecurity, established the first mechanisms to enhance strategic and operational cooperation between Member States, and introduced obligations concerning security measures and incident notifications

across sectors which are vital for the economy and society, such as energy, transport, drinking water supply and distribution, banking, financial market infrastructures, healthcare, digital infrastructure as well as key digital service providers (search engines, cloud computing services and online marketplaces).

Network and information systems and electronic communications networks and services play a vital role in society and have become the backbone of economic growth. Information and communications technology (ICT) underpins the complex systems which support everyday societal activities, keep our economies running in key sectors such as health, energy, finance and transport, and, in particular, support the functioning of the internal market.

Cyberattacks are on the increase and a connected economy and society that is more vulnerable to cyber threats and attacks requires stronger defences. However, while cyberattacks often take place across borders, the competence of, and policy responses by, cybersecurity and law enforcement authorities are predominantly national. Large-scale incidents could disrupt the provision of essential services across the Union. This necessitates effective and coordinated responses and crisis management at Union level, building on dedicated policies and wider instruments for European solidarity and mutual assistance. Moreover, a regular assessment of the state of cybersecurity and resilience in the Union, based on reliable Union data, as well as systematic forecasts of future developments, challenges and threats, at Union and global level, are important for policy makers, industry and users.

In light of the increased cybersecurity challenges faced by the Union, there is a need for a comprehensive set of measures that would build on previous Union action and would foster mutually reinforcing objectives. Those objectives include further increasing the capabilities and preparedness of Member States and businesses, as well as improving cooperation, information sharing and coordination across Member States and Union institutions, bodies, offices and agencies. Furthermore, given the borderless nature of cyber threats, there is a need to increase capabilities at Union level that could complement the action of Member States, in particular in cases of large-scale cross-border incidents and crises, while taking into account the importance of maintaining and further enhancing the national capabilities to respond to cyber threats of all scales.

The adoption on the 17th of April 2019 of Regulation 2019/881 further strengthened the European legal framework regarding cybersecurity.

For more details about this new Law please check the link below:

http://www.legislation.gov.uk/eur/2019/881

Doing business in China

China promulgates a new law to encourage and protect foreign investment and open markets.

On 15/03/2019, the National People's Congress of the People's Republic of China has promulgated a new law on attracting foreign investment, which will come into effect on 01/01/2020.

This Foreign Investment Law has been drafted to further expand and encourage openness to foreign investment, protect the rights and interests of foreign investors, standardize the regulation of foreign investment, promote the formation of a new structure for comprehensive liberalization, enhance healthy economic development and improve the legal system for foreign investors in the People's Republic of China.

Outstanding features of the China's Foreign Investment Attraction Law:

1. The law has not expressly provided

for its application in Hong Kong, Macao and Taiwan.

2. The Foreign Investment Law provides for the treatment of foreign investors working in the Republic of China as citizens.

3. To achieve protection for foreign investors, the Law stipulates that foreign investments shall not be confiscated by the State, except in cases of public interest, with the obligation of the State to provide fair and reasonable indemnification.

4. According to the Foreign Investment Law, the intellectual property rights of foreign investors in China will be protected and all legal actions will be taken in case of any violation of intellectual property rights.

5. All sectors are involved in this law, including financial institutions, education, insurance, import, export, and investment, etc.

6. The Law has been generally drafted, making it difficult to confirm the success of the experiment. Investors are therefore waiting for the success of the law. Critics point out that the Law, as it stands, is still insufficient to address investor concerns. The vague wording of the Law means that foreign investors will need to wait for a while to see what it means in practice.

To view the new Foreign Investment Law of the People's Republic of China, please click on the link below.

Order of the President of the People's Republic of China No. 26

The Foreign Investment Law of the People's Republic of China, adopted at

the Second Session of the 13th National People's Congress on March 15, 2019, is hereby promulgated for implementation as of January 1, 2020.

Xi Jinping, President of the People's Republic of China, March 15, 2019

Foreign Investment Law of the People's Republic of China

(Adopted at the Second Session of the 13th National People's Congress on March 15, 2019)

Chapter I General Provisions

Article 1 **The Foreign Investment Law of the People's Republic of China (hereinafter referred to as "the Law") is hereby formulated in accordance with the Constitution of the People's Republic of China in a bid to further expand opening-up, vigorously promote foreign investment, protect the legitimate rights and interests of foreign investors, standardize the management of foreign investment, impel the formation of a new pattern of all-round opening-up and boost the sound development of the socialist market economy.**

Article 2 **The Law shall be applicable to the foreign investment within the territory of the People's Republic of China ("the territory of China").**

For the purpose of the Law, foreign investment refers to the investment activity directly or indirectly conducted by a foreign natural person, enterprise or other organization (the "foreign investors"), including the following circumstances:

1. **A foreign investor establishes a foreign-funded enterprise within the territory of China, independently or jointly with any other investor;**

2. **A foreign investor acquires shares, equities, property shares or any other similar rights and interests of an enterprise within the territory of China;**

3. **A foreign investor makes investment to initiate a new project within the territory of China, independently or jointly with any other investor; and**

4. A foreign investor makes investment in any other way stipulated by laws, administrative regulations or provisions of the State Council.

For the purpose of the Law, a foreign-funded enterprise refers to an enterprise that is incorporated under the Chinese laws within the territory of China and is wholly or partly invested by a foreign investor.

Article 3 The State shall adhere to the basic state policy of opening-up and encourage foreign investors to make investments within the territory of China.

The State shall implement policies on high-level investment liberalization and convenience, establish and improve the mechanism to promote foreign investment, and create a stable, transparent, foreseeable and level-playing market environment.

Article 4 The State shall implement the management systems of pre-establishment national treatment and negative list for foreign investment.

For the purpose of the preceding paragraph, pre-establishment national treatment refers to the treatment given to foreign investors and their investments during the investment access stage, which is not lower than that given to their domestic counterparts; negative list refers to special administrative measures for the access of foreign investment in specific fields as stipulated by the State. The State shall give national treatment to foreign investment beyond the negative list.

The negative list will be issued by or upon approval by the State Council.

If more preferential treatment concerning access is offered to a foreign investor under any international treaty or agreement that the People's Republic of China concludes or joins in, relevant provisions in such treaty or agreement may prevail.

Article 5 The State shall protect foreign investors' investment, earnings and other legitimate rights and interests within the territory of China in accordance with the law.

Article 6 Foreign investors and foreign-funded enterprises carrying out investment activities within the territory of China shall observe the Chinese laws and regulations, and shall not impair China's security or damage any public interest.

Article 7 The competent departments for commerce and investment under the State Council shall, pursuant to the division of duties, promote, protect and manage foreign investment; other relevant departments under the State Council shall take charge of the relevant work in the promotion, protection and management of foreign investment within the scope of their respective duties.

The relevant department under the local people's government at or above the county level shall carry out the work relating to promotion, protection and management of foreign investment in accordance with laws and regulations and in line with the division of duties determined by the people's government at the same level.

Article 8 Employees of a foreign-funded enterprise shall, pursuant to the law, establish trade union, carry out trade union activities, and safeguard their legitimate rights and interests. A foreign-funded enterprise shall provide necessary conditions for its trade union to carry out relevant activities.

Chapter II Investment Promotion

Article 9 All national policies on supporting the development of enterprises shall equally apply to foreign-funded enterprises in accordance with the law.

Article 10 Comments and suggestions from foreign-funded enterprises shall be sought in a proper manner when formulating laws, regulations and rules relating to foreign investment.

Normative documents and judgment documents relating to foreign investment shall be published in accordance with the law in due time.

Article 11 The State shall establish and perfect the service system for foreign investment, and provide foreign investors and foreign-funded enterprises with consultation and services in respect of laws and regulations, policies and measures, investment project information and other aspects.

Article 12 The State shall establish multilateral and bilateral cooperation mechanisms for the promotion of investment with other countries, regions and international organizations, so as to enhance international exchanges and cooperation in terms of investment.

Article 13 The State may, as needed, establish special economic area or carry out pilot polices and measures on foreign investment in specific areas, so as to promote foreign investment and expanding opening-up.

Article 14 The State may, according to the requirements of national economy and social development, encourage and guide foreign investors to invest in specific industries, fields and areas. Foreign investors and foreign-funded

enterprises may enjoy preferential treatments in accordance with laws, administrative regulations or provisions of the State Council.

Article 15 The State shall guarantee that foreign-funded enterprises can equally participate in setting standards in accordance with the law, and enhance information disclosure and social supervision on standard setting.

The compulsory standards formulated by the State shall equally apply to foreign-funded enterprises.

Article 16 The State shall guarantee that foreign-funded enterprises can participate in government procurement activities through fair competition. Products produced and services provided by foreign-funded enterprises within the territory of China shall be treated equally in a government procurement.

Article 17 Foreign-funded enterprises may conduct financing through public offering of shares, corporate bonds and other securities or by other means.

Article 18 Local people's governments at county level or above may, in accordance with the provisions in laws, administrative regulations or local regulations, formulate policies on promotion and facilitation of foreign investment within their respective statutory authorities.

Article 19 People's governments at all levels and relevant departments thereunder shall, under the principle of convenience, efficiency and transparency, streamline procedures for handling affairs, raise their efficiency and optimize government services, so as to further improve the services offered for foreign investment.

Relevant competent departments shall prepare and publish guidelines for foreign investment and provide foreign investors and foreign-funded enterprises with services and convenience.

Chapter III Investment Protection

Article 20 The State is not to expropriate any investment made by foreign investors.

Under special circumstances, the State may expropriate or requisition an investment made by foreign investors for public interests in accordance with the law. Such expropriation or requisition shall be made pursuant to statutory procedures and fair and reasonable compensation will be given in a timely manner.

Article 21 A foreign investor may, in accordance with the law, freely transfer inward and outward its contributions, profits, capital gains, income from asset disposal, royalties of intellectual property rights, lawfully obtained compensation or indemnity, income from liquidation and so on within the territory of China in CNY or a foreign currency.

Article 22 The State shall protect the intellectual property rights of foreign investors and foreign-funded enterprises, and protect the legitimate rights and interests of holders of intellectual property rights and relevant right holders; in case of any infringement of intellectual property right, legal liability shall be investigated strictly the legal liability in accordance with the law.

During the process of foreign investment, the State shall encourage technology

cooperation on the basis of free will and business rules. Conditions for technology cooperation shall be determined by all investment parties upon negotiation under the principle of equity. No administrative department or its staff member shall force any transfer of technology by administrative means.

Article 23 Administrative departments and their staff members shall keep confidential any trade secret of foreign investor or foreign-funded enterprise they are aware of during the performance of their duties, and shall not divulge or illegally provide to others the secret.

Article 24 In formulating normative documents concerning foreign investment, the people's governments at all levels and their relevant departments shall comply with laws and regulations. Where relevant laws and regulations are not available, the people's governments at all levels and their relevant departments shall not impair the legitimate rights and interests of or impose any additional obligation to a foreign-funded enterprise, set any condition for market access and withdrawal, or intervene any normal production and operation activity of a foreign-funded enterprise.

Article 25 Local people's governments at all levels and their relevant departments shall strictly keep their policy commitments made to foreign investors and foreign-funded enterprises and perform all contracts entered into in accordance with the law.

If any policy commitment or contract needs to be changed due to national interests or public interests, the statutory authority and procedures shall be strictly followed, and the foreign investor or foreign-funded enterprise concerned shall be compensated for losses incurred thereby in accordance with the law.

Article 26 The State shall establish a complaint mechanism for foreign-funded enterprises, timely solve the problems reported by foreign-funded enterprises or their investors, and coordinate and improve relevant policy measures.

Where a foreign-funded enterprise or its investor deems that any administrative

act of an administrative department or its staff member infringes its legitimate rights and interests, it may seek coordination and resolution thereof through the complaint mechanism for foreign-funded enterprises.

Where a foreign-funded enterprise or its investor deems that any administrative act of an administrative department or its staff member infringes its legitimate rights and interests, in addition to seeking coordination and resolution through the complaint mechanism for foreign-funded enterprises, it may apply for administrative review, or lodge an administrative litigation.

Article 27 Foreign-funded enterprises may legally establish and voluntarily join in a chamber of commerce or association, which shall carry out relevant activities in accordance with laws, regulations and the articles of association thereof and safeguard the legitimate rights and interests of its member.

Chapter IV Investment Management

Article 28 Foreign investors shall not invest in any field forbidden by the negative list for access of foreign investment (hereinafter referred to as the "negative list").

For any field restricted by the negative list, foreign investors shall conform to the investment conditions provided in the negative list.

Fields not included in the negative list shall be managed under the principle that domestic investment and foreign investment shall be treated uniformly.

Article 29 During the process of foreign investment, where verification and record-filing of a foreign investment project are required, relevant provisions of the State shall be followed.

Article 30 If a foreign investor invests in an industry or field where license is required in accordance with the law, relevant licensing formalities shall be handled as stipulated by law.

Unless otherwise provided by laws or administrative regulations, relevant competent department . shall review

the application for license filed by the foreign investor based on the same conditions and procedures as those for domestic investment.

Article 31 The organization form, institutional framework and standard of conduct of a foreign-funded enterprise shall be subject to the provisions of the Company Law of the People's Republic of China, the Partnership Law of the People's Republic of China, and other laws.

Article 32 In carrying out production and operation activities, foreign-funded enterprises shall conform to relevant provisions on labor protection and social insurance stipulated in laws and administrative regulations, handle tax, accounting, foreign exchange and other matters in accordance with laws, administrative regulations and relevant provisions of the State, and shall be subject to the supervision and inspection conducted by relevant competent departments in accordance with the law.

Article 33 Foreign investors who acquire a company within the territory of China through mergers and acquisitions or participate in the concentration of undertakings by other means shall be subject to the examination for concentration of undertakings as stipulated by the Anti-Monopoly Law of the People's Republic of China.

Article 34 The State shall establish a foreign investment information reporting system. Foreign investors or foreign-funded enterprises shall submit the investment information to competent departments for commerce through the enterprise registration system and the enterprise credit information publicity system.

The contents and scope of foreign investment information to be reported shall be determined under the principle of necessity; investment information that is available through interdepartmental information sharing will not be required to be submitted again.

Article 35 The State shall establish a safety review system for foreign investment, under which the safety review shall be conducted for any foreign investment affecting or having the possibility to affect national security.

The decision made upon the safety review in accordance with the law shall be final.

Chapter V Legal Liability

Article 36 Where a foreign investor invests in a field forbidden by the negative list, relevant competent department shall order the said investor to stop its investment activity, dispose of the shares and assets thereof or take any other necessary measures within a prescribed time limit, and restore the state to what it was prior to the investment; if there is any illegal gain, such gain shall be confiscated.

Where an investment activity of a foreign investor breaches any special administrative measures for restrictive access provided in the negative list, relevant competent department shall order the investor to make corrections within a prescribed time limit, and take necessary measures to meet the requirements of the aforesaid measures; if the foreign investor fails to make corrections within the time limit, measures specified in the preceding paragraph shall be taken.

Where an investment activity of a foreign investor violates any provision in the negative list, the said investor shall bear corresponding legal liability in accordance the law, in addition to being subject to measures specified in the preceding two paragraphs.

Article 37 Where any foreign investor or foreign-funded enterprise violates the provisions herein and fails to report their investment information as required by the foreign investment information reporting system, competent department for commerce shall order it to make corrections within a prescribed time limit; if such corrections are not made in time, a penalty of not less than CNY100,000 yet not more than CNY500,000 shall be imposed.

Article 38 Foreign investors and foreign-funded enterprises violating any law or regulation shall be subject to investigation and measures by relevant departments in accordance with the law and shall be included in the credit information system pursuant to relevant provisions of the State.

Article 39 Where a staff member of an administrative department abuses his/her functions and powers, neglects his/her duties or engages in malpractice for personal gain during the work relating to promotion, protection and management of foreign investment, or divulge or illegally provide to others any trade secret he/she is aware of during the performance of duties, a penalty will be imposed upon him/her in accordance with the law; if a crime is constituted, he/she will be held criminally liable.

Chapter VI Supplementary Provisions

Article 40 Where any country or region takes any discriminatory prohibitive or restrictive measures, or other similar measures against the People's Republic of China in terms of investment, the People's Republic of China may take corresponding measures against the said country or region in light of the actual conditions.

Article 41 For foreign investors who invest in such financial industries as banking, securities and insurance or manage any investment in such financial markets as securities market and foreign exchange market within the territory of China within the territory of China, where the State has any other provisions, such provisions shall prevail.

Article 42 The Law shall come into effect as of January 1, 2020. The Law of the People's Republic of China on Sino-Foreign Equity Joint Ventures, the Law of the People's Republic of China on Wholly Foreign-owned Enterprises and the Law of the People's Republic of China on Sino-Foreign Cooperative Joint Ventures shall be repealed simultaneously.

Foreign-funded enterprises, which were established in accordance with the Law of the People's Republic of China on Sino-Foreign Equity Joint Ventures, the Law of the People's Republic of China on Wholly Foreign-owned Enterprises and the Law of the People's Republic of China on Sino-Foreign Cooperative Joint Ventures before the implementation of the Law, may retain their original organization forms and other aspects for five years upon the implementation hereof. Specific implementation measures shall be formulated by the State Council.

New Regulations On Implementing Law On Anti-Corruption Vietnam

On July 01, 2019, the Vietnam Government promulgates Decree No. 59/2019/ND-CP elaborating on a number of Articles and the measures for implementation of the Law on Anti-corruption.

Cases of conflict of interest are identified According to Article 29, an office holder is considered to have conflict of interest when there is evidence indicating that he/she falls or will fall into any of the following cases:

- Receiving money, property or other benefits of the agencies, organizations, units or individuals involved in their work or under their management;

- Establishing, managing, operating sole proprietorship, limited liability companies, joint-stock companies, partnerships or cooperatives unless specified otherwise;

- Consulting domestic or foreign enterprises, organizations or individuals about matters regarding secrets of the State, secrets of business within his/her competence to handle or collaborate;

Guidelines on giving and receiving gifts are specified

Regarding guidelines on receiving gifts, the office holding agencies, organizations, units or individuals must not by all means receive the gifts from the agencies, organizations, units or individuals involved in their work or under their management. In case of being unable to reject, the agencies, organizations or units must follow mane and handle according to regulations and laws.

The agencies, organizations or units must reject the inappropriate gifts; if unable to reject, the gifts must be handed over to the department in charge of managing gifts of that agencies or units for further handling as specified in this Decree.

"the new law on anti-corruption has now been widened its scope of application – it no longer only applies to govern behaviors of the public sector – but will also apply its supervisory upon behaviors of private entities. In this update"

Implementation of anti-corruption measures in enterprises and non-state social organizations is regulated

The Decree elaborates assurance of publicity and transparency in organization and operation of enterprises and non-state organizations; management of conflict of interest in enterprises, non-state organizations; responsibility and sanctions against heads and deputies of enterprises and non-state organizations for corruption in their organizations; inspection contents and handling overlaps in inspection on the compliance with the Law on Anti-corruption of enterprises and organizations.

Provision of information at the request of authorities and organizations is made

The Decree elaborates rights and obligations of the information requesting agencies and organizations; rights and obligations of the requested organizations and agencies; responsibilities of heads of agencies, organizations and units in provision of information at the request of agencies, organizations; methods of requesting for information of organizations and agencies; response to the information request and protecting rights and obligations to request information of organizations and agencies.

Besides, the Decree elaborates some contents of accountability, criteria for assessing anti-corruption works, reassignment and disciplining heads and deputies of agencies, organizations and units for allowing corruption to occur and sanctions against other violations relating anti-corruption law.

"New definition of "corruption" and "person with title/ power"

With these new regulations, the new law on anti-corruption has now been widened its scope of application – it no longer only applies to govern behaviors of the public sector – but will also apply its supervisory upon behaviors of private entities. In this update, we note a number of remarkable changes required by the new regulations for private sector's attention.

New definition of "corruption" and "person with title/power"

Under the AC Law 2018, the definition of "corruption" and "person with title/ power" have been substantially amended to widen the scope of application of this law covering the private sector.

In particular, the AC Law 2018 now clearly separates the actions to be considered as "corruption" in public and private sectors. While the ambit of "corruption" remains as same for state entities as those under the AC Law 2005, the definition of "corruption" applicable to private sector is limited in three actions as below:

1. Embezzling property
2. Taking a bribe
3. Offering or brokering bribe for the entities

Regarding the term "person with title/ power," the AC Law 2018 now provides a broader description –i.e. it refers to person who is appointed, elected, hired, either on contractual or other bases, either with or without salary, to perform specific tasks and duties and has specific powers in performing such tasks and duties. Under this broader definition, the term "person with title/ power" now covers a person who holds a management position in private enterprises or organizations.

New responsibilities and obligations applicable to private sector

General responsibilities

The AC Law 2018 and Decree 59 sets out new general obligations and requirements for private sector in preventing and fighting against corruption. In particular, entities in private sector are now required to:

(1) Issue and implement anti-corruption measures/policies, such as the ethics code, code of conduct and internal control mechanism;

(2) Report to and cooperate with competent authorities in handling corrupt acts in the Company/ organization.

(3) Promptly notify to and provide information on the corrupt acts of the management positions in the enterprises/ organizations with the competent authorities.

In addition, private enterprises being public companies or credit institutions are also required to establish policies on transparency and conflict of interest for enforcement throughout the operation of such enterprises.

Ethics code, code of conduct and internal control mechanism

One of the remarkable regulations is that the AC Law 2018 urges entities in private sector to establish business ethics code for their employees and/or members in order to create a non-corrupt working environment.

In addition to the ethics code, enterprises in private sector have to formulate a code of conduct and

internal control mechanism (collectively, the Internal Code) to prevent and fight corruption as well as the conflict of interests. It is advisable for enterprises in private sector to prepare the Internal Code with the following specifications on:

(1) Clear definition of "corrupt acts," "persons with title/value," "gift/ valuable" or equivalent terms;

(2) The prohibited actions (i.e., actions which would constitute the "corrupt acts");

(3) Suspected violations reporting mechanism;

(4) Relevant disciplinary measures etc., (NB: such disciplinary measures must also be clearly specified in the internal labor rule of such enterprises for registration with labor authorities).

Specific regulations applied to public companies and credit institutions

Along with the above regulations, private entities being public companies and credit institutions must also comply with the following obligations:

(1) To publicly disclose information of public companies/credit institutions relating to the Employees' benefits policies, companies' or institutions' asset usage, or the organizational structure.

(2) To take measures to strengthen the control of conflict of interests within its organization (i.e., imposing a reporting or control mechanism of transaction with related party of person holding a management positioned.)

In addition, if there is any corrupt act occurring within the business, managers of the company (such as the General Director, CEO, CFO etc.,) may also be held responsible.

Furthermore, the AC Law 2018 and Decree 59 now provide specific the measures to handle the violations in

these entities. If any corrupt act occurs within the business:

(1) The public company/credit institution shall be imposed an administrative fine (by competent authorities); and

(2) The managers of such company/ institution need to be disciplined or imposed penalties by the company/ institution in accordance with the charter of such company/institution (NB: there must be clear regulation to discipline or penalize the company/ institution's manager in this regards for strict compliance with this requirement under AC Law 2018 and Decree 59).

In case such public company/credit institution does not impose any measure to handle the violation of its managers, competent authorities have discretionary power to publicly disclose the name, address and (description of) the violation of such person.

Decree 59 also sets out inspection mechanism for competent authorities to conduct inspection on the implementation of AC Law's requirements applicable to private enterprises. Specially, public companies and credit institutions shall be inspected on the compliance with transparency and conflict of interest regulations under the AC Law 2018. However, the inspection shall not be conducted on regular basis, as competent authorities must rely on clear basis to support an inspection decision:

(1) If there is clear sign of failure to comply with regulations and law on corruption precautions;

(2) If there is report or claim on violations of the enterprises.

Remarks With the adoption of the AC Law 2018 and the Decree No. 59/2019/ ND-CP, this is the first time that private sector has become the subject to be governed by Vietnam's anti-corruption legislations.

This Decree comes into force from August 15, 2019.

"Enterprises in private sector have to formulate a code of conduct and internal control mechanism to prevent and fight corruption as well as the conflict of interests"

New Digital Bank Licenses

On 28 June 2019, the Monetary Authority of Singapore ("MAS") announced that it will issue up to five new digital bank licenses. This is in addition to any digital banks that Singapore banks may also establish under the existing internet banking framework introduced in 2000.

MAS' decision would extend digital bank licenses to non-bank players. The entry of new digital players will add diversity and help strengthen Singapore's banking system in the digital economy of the future. With innovative business models and strong digital capabilities, these players can cater to under-served segments of the market. They will provide impetus for existing banks to continue enhancing the quality of their digital offerings.

A new international treaty named the Singapore Convention on Mediation was opened for signature in Singapore

A total of 46 countries, including China, the United States, India and the Republic of Korea, inked the convention at a signing ceremony and conference organized by the United Nations Commission on International Trade Law (UNCITRAL) and the Singapore Ministry of Law.

Li Chenggang, assistant minister of commerce, signed the convention on behalf of the Chinese government.

Also known as the United Nations Convention on International Settlement Agreements Resulting from Mediation, the treaty applies to settlements resulting from mediation of international commercial disputes, enabling enforcement in the courts of the signatory countries.

"This will help advance international trade, commerce and investment," said Singapore Prime Minister Lee Hsien Loong at the opening ceremony.

Lengthy commercial disputes can severely disrupt business operations, damage reputations, pull down share prices and make it harder for companies to raise capital, Lee said, adding that a robust framework to manage such conflicts can prevent disputes escalating unnecessarily or causing unintended consequences.

Today, for cross-border disputes, many businesses rely either on arbitration, enforced via the New York Convention, or on litigation.

Citing the convention as "the missing

third piece in the international dispute resolution enforcement framework," Lee noted that businesses will benefit from greater flexibility, efficiency and lower costs, while states can enhance access to justice by facilitating enforcement of mediated agreements.

The Singapore Convention is also a powerful statement in support of multilateralism, according to Lee. "Multilateralism is under pressure, but the solution is to improve it, not to abandon it," he said.

Stephen Mathias,the United Nations (U.N.) assistant secretary general for legal affairs, in his address, pointed out this was the first treaty on mediation, bridging legal systems and reflecting a worldwide consensus beyond cultural differences.

By promoting settlement of disputes driven by party autonomy, the convention establishes mediation as a credible and effective path for commercial parties to not only resolve commercial disputes, but also preserve their long-term relationships, he said.

It contributed to the mitigation of unnecessary costs and risks and would help build confidence in the ability to engage in cross-border trade, creating fertile ground for sustainable investment and innovation, the U.N. official added.

Finalized at the 51 Commission session of UNCITRAL in June last year and adopted by the United Nations General Assembly in December, the convention will come into force after it is ratified by at least three countries.

Chinese investors head to Southeast Asia for acquisitions as they face rising barriers in the US and Europe

Southeast Asia is the preferred investment destination among Asia-Pacific executives, though Chinese firms need to tread carefully in the region.

Baker McKenzie survey finds previous hotpots of Europe, Britain the UK and the United States falling out of favour

Corporate executives in the Asia-Pacific region remain upbeat on international investments, although interest in Southeast Asia has begun to displace previously favoured destinations, according to a survey by law firm Baker McKenzie.

Destinations such as Europe, Britain and the United States have fallen out of favour, overtaken by Thailand, Vietnam and other Southeast Asian nations, according to the survey, which polled 600 executives in the Asia-Pacific.

Across all firms surveyed, 88 per cent of respondents said their firms were more interested in international expansion, be that acquisitions, investments or listings, over the next two years.

The report's authors found that China's "Belt and Road Initiative" remained important to the strategy of Hong Kong and Chinese companies

"Southeast Asia remains a key region

for [belt and road] investments, with infrastructure and power investments leading the way, followed by manufacturing, financial services and e-commerce. [Belt and road] investment is expected to be active over the next one to two years, covering more jurisdictions and more industries.

Other analysts said the sources of funding for such projects was expected to change over time.

"By 2030, we expect that a large proportion of belt and road-related projects will be funded not just by Chinese money but a mix of private capital, multilateral banks, export credit agencies and foreign lenders," said Martin David, Asia-Pacific head of Baker McKenzie's projects group.

"That said, Chinese lenders are always likely to be a core component of every BRI project."

Chinese companies reduced foreign direct investment into the US by 83 per cent in 2018 on year, while Chinese investment into the European Union was down 70 per cent during the period, according to a January 2019 report by Baker McKenzie and the Rhodium Group.

> *"Southeast Asia remains a key region for {belt and road] investments, with infrastructure and power investments leading the way, followed by manufacturing, financial services and e-commerce. [Belt and road] investment is expected to be active over the next one to two years*

> *Southeast Asia was expected to become the world's fourth largest economy by 2030*

The report noted that Southeast Asia offered good economic growth rates and substantial market size, as well as a degree of cultural affinity for Chinese companies that may not exist in the US or Europe. The survey found that gaining access to new markets was a major drawing card for international companies, while lowering production or labour costs was considered relatively less important. Asset valuation was also deemed more reasonable than in China or developed economies.

Munir Abdul Aziz of Baker McKenzie Kuala Lumpur said that Southeast Asia was expected to become the world's fourth largest economy by 2030, and that multinational corporations were deepening their foothold in the region.

"Historically paternalistic practices are giving way to greater openness and more creative approaches that place consumers at the heart of business strategy," he said.

However, Chinese companies will need to be aware of the importance of garnering trust when they expand into new markets in Southeast Asia.

7 ways to improve your negotiation skills to get the best deal:

1. Build emotional equity and this should happen before you sit down and doing the negotiations, so they like you and trust you to get a good deal.

2. Recognize the power of thorough presentation, we will know we're supposed to prepare thoroughly to negotiate but we often fail to follow through on our best intentions. The single most valuable step you could take to improve your negotiation skills is to prepare throughly for important talks. That might mean setting aside a set number of hours every day to do your research and homework.

3. Practice saying No, human beings are programmed to be non-conformational, from a young to follow orders or else get punished so taking the opportunity to say no to minor instances will help you say no to bigger things whether, it's disagreeing with your boss on your performance review, because this lifelong habit of avoiding confrontation and just saying yes weakness your negotiation skills.

4. Know your value part of reason, why most people have a hard time saying no is because they're not aware of their real value to the company, one

of the key elements in negotiation is knowing what you have to bring to the label. The more confident you are in your skills and experience, the more your able to leverage yourself.

5. Study body language, there's no question that body language is important, it makes your presentation more memorable, if you stand out during interviews and it also gives you that winning edge in negotiations. When it comes to negotiation, having the proper body language will not only make you feel more confident but it will also make you appear more authoritative and memorable.

6. Practice, the only way to be good at negotiation is to practice, rehearse in fronted the mirror so you know how you look and will be more conscious hand gestures.

7. Listen, Giving people opportunity to speak not only makes negotiation less uncomfortable. But it also helps you decide one which proper avenues to pursue.

Legal Design Thinking

A creative process for innovation

Concept of legal Design:

Is application of human-centered design to the world of law to make legal systems and services more human-centers ,usable ,and satisfying its brings a culture of design Thinking, user research and human-centered design methods into the world of law, and in the process, if sets key new materials for how we operate in the world of law .

Are we delivering services that are?

1- Useful

2- Usable

3- Engaging

Design offers methods and priorities to transform the legal sector to make the legal outcomes more aligned with those its user's desire, and to create ambitious new visions for how legal services can be provided.

The goals of legal Design:

1. Helping the layperson and the legal professional

2. Creating a better front-end to the legal system and a better back- end.

3. Working for incremental short-term improvements and breakthrough long term change.

Legal Design focuses on legal design users the power of design mindsets and process to create better interfaces and tools with which people can navigate the legal system just like you can think like a lawyer, you can think like a designer.

Types of design:

1. **Visual design:** it's about solving problems it's focused on how information is presented to its audience, and how to engage inform and communicate the message to the audience.

2. **Product design:** it's about how designers can develop tools and things that can help accomplish.

3. **Service design:** it's concerned with a user's journey from problem situation to resolution and how the users experience can be improved a long this path way.

4. **Organization design:** its focuses on how people can work together and accomplish in sync, if can involve changing staffing space, culture in organization.

5. **System design:** this is the most complex type of design, which attempts to coordinate a large scale of products, services, communication, and interactions together into a large and going system of people.

Design Thinking helps professional tape into their own expertise while structuring them through what innovation could actually be.

Design is a field of how's that can make a world of what's like law better.

Legal design aims to build environments, interfaces and tools that support people smartness.

It's about increasing a person capacity to make strategic decisions for herself.

Its target is more the brain.

For more details please check this link: lawbydesign.com

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