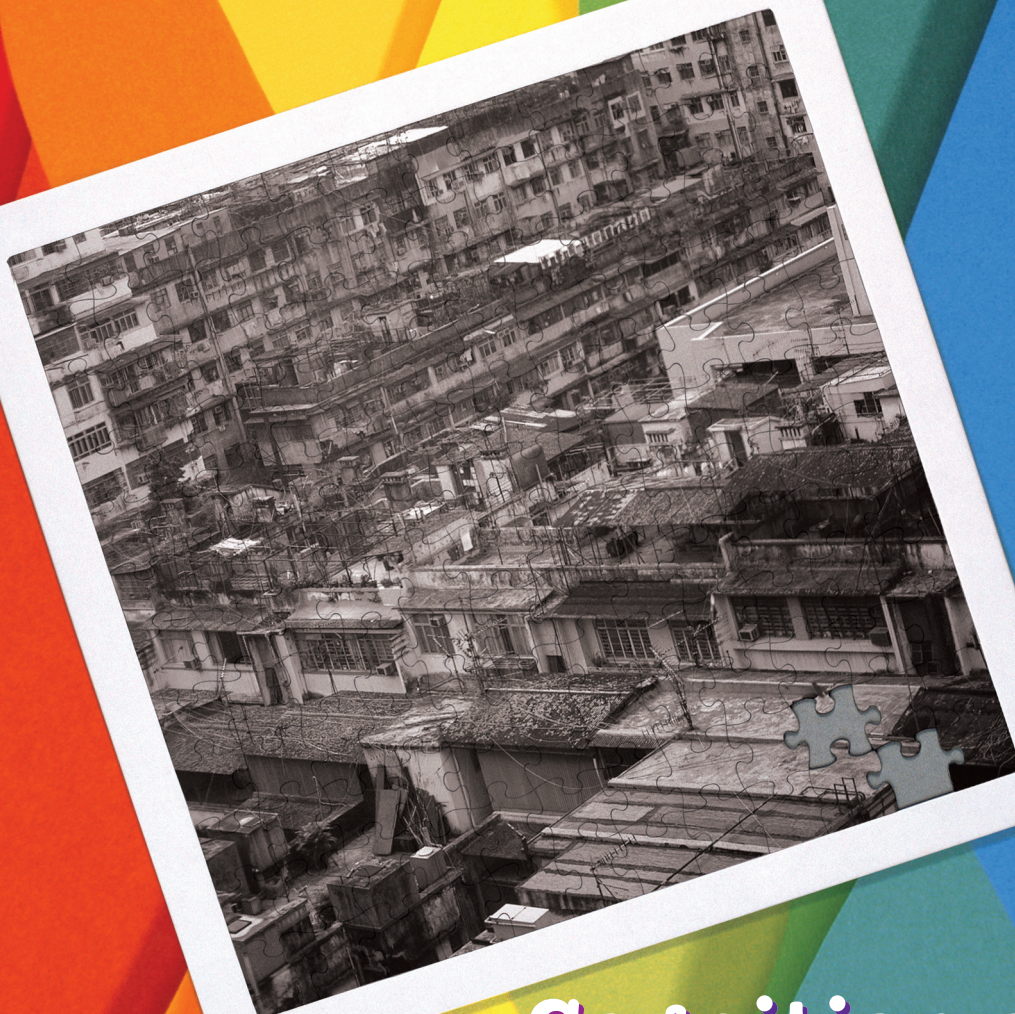


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# SURVEYORS

測量師時代  
**Times**

Vol. 15 • No. 1 • January 2006



**Cognition of quality**  
**素質的認知**



## HKIS 2005-2006 General Council

### 香港測量師學會2005 – 2006年度理事會

#### Office Bearers 執行理事

President 會長	Wong Chung-hang 黃仲衡
Senior Vice President 高級副會長	Raymond Chan 陳旭明
Vice President 副會長	Yu Kam-hung 余錦雄
Honorary Secretary 義務秘書	Francis Leung 梁立基
Honorary Treasurer 義務司庫	Nelson Cheng 鄭偉雄

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##### Building Surveying Division 建築測量組

Chairman 主席	Edwin Tang 鄧海坤
Vice Chairman 副主席	Alex Wong 黃來發
Council Member 理事	Kenneth Yun 甄英傑

##### General Practice Division 產業測量組

Chairman 主席	Serena Lau 劉詩韻
Vice Chairman 副主席	Chiu Kam-kuen 趙錦權
Vice Chairman 副主席	Lawrence Poon 潘永祥

##### Land Surveying Division 土地測量組

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Vice Chairman 副主席	Sung Hon-kwong 宋漢光
Honorary Secretary 義務秘書	Rina Tsoi 蔡韻琳

##### Planning & Development Division 規劃及發展組

Chairman 主席	Edwin Tsang 曾正麟
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##### Property & Facility Management Division 物業設施管理組

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Vice Chairman 副主席	Kenneth Chan 陳佐堅
Honorary Secretary 義務秘書	Dick Kwok 郭岳忠

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Chairman 主席	Paul Ho 何學強
Vice Chairman 副主席	Spencer Kwan 關天智
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##### Junior Organization 青年組

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Vice Chairman 副主席	Martin Leung 梁偉聰

##### Technical Grade 技術會員級

Representative 代表	Fung Chiu-kit 馮照傑
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Chairman, Board of Education 教育委員會主席	Wong Bay 黃比
Chairman, Board of Membership 會籍委員會主席	Evenlyn Kwok 郭劍生
Chairman, Board of Professional Development 專業發展委員會主席	Barnabas Chung 鍾鴻鈞

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The Hong Kong Institute of Surveyors 香港測量師學會

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 2005-2006 測量師學會編輯委員會  
 左起：蘇振顯，譚紹匡，周明，甄英傑，梁立基，陳家玉，黃力行，區成禧，郭靖華

It is my privilege to be able to continue to serve as the Hon Editor, following the election of the new General Council on 12 December 2005. The new Editorial Board had our first meeting on 19 January 2006 when the editorial policy and plan for the coming year were discussed. While in this issue there is no noticeable change in editorial style or presentation, with some new members on board, some new ideas will gradually take shape in future issues. One little change readers may have noticed is that I am writing this message in both English and Chinese. We have received suggestions from some new members in Mainland that they would like to see more articles being published in Chinese. On the other hand, some members hold the view that the Surveyors Times should remain primarily as an English publication, so as to properly echo our profession's international focus. The Editorial Board has good internal discussions on this subject. We do look forward to hearing more from general members and readers. Please write or e-mail to us at linda@hkis.org.hk. Meanwhile, with the approach of the Chinese New Year, our greetings to all readers is best conveyed in Chinese: 一元復始，萬象更新。

Francis Leung

本屆理事會委任我再次作為義務編輯實在令我感到鼓舞。新一屆的編輯委員會在1月19日的會議上談論了「測量師時代」的何去何從；雖然短期內比較表面化的改變不會出現，但我們是有決心把本刊帶領到一個更符合市場現實的目標。這一刻的最大改變可能就是「編者話」變為雙語發佈。內地會員讀者表達了他們希望能閱讀更多中文信息的願望；然而，部分會員讀者又強調了英語作為一個不可忽視的國際溝通語言的重要性。在這個議題上，編輯委員會作了初步討論，我們殷切地期待廣大讀者提供你們的看法，請將意見投寄本編輯委員會或電郵 linda@hkis.org.hk。一元復始，萬象更新。在此，我僅代表編輯委員會向各位恭賀新年好！

梁立基



## Cognition of quality

First of all, I wish you all a very prosperous year of 2006.

The year of 2005 saw a lot of developments in the Hong Kong Institute of Surveyors. We have tried to make some changes to our institute's practice and operation. We have tried to amend the Constitution and Bye-laws. No matter whether such changes have successfully been implemented or not, the whole institute has learnt a lot in getting to know more about ourselves. Some achievements are still not up to the original expectations. Others may have even been worked out against the ideas of some members.

To recapitulate what we have done, I have to say that we need to take care of the concerns raised by different sectors of our membership in an open and impartial manner. There are challenges lying ahead of us. We have to rethink our corporate values in facing the constant and rapid changes in our society. We have to reposition ourselves in coping with the effects of globalization. As I have emphasized in my New President's Speech at the last annual general meeting, we need to uphold standards for stronger competitiveness.

Our institute was formed in 1984 and then incorporated under the Hong Kong Institute of Surveyors Ordinance (Cap 1148) in 1990. The Surveyors Registration Ordinance (Cap 417) was enacted in 1991 and the

Surveyors Registration Board was established. Under the Surveyors Registration Ordinance, HKIS has the statutory duty to appoint its members to serve on the Surveyors Registration Board. The Surveyors Registration Board should consist of not less than twelve HKIS members and one board member to be appointed by the Chief Executive. The functions of the Surveyors Registration Board are to maintain a register of registered professional surveyors and exercise disciplinary control of the registered professional surveyors.

HKIS membership is the qualification for registration as Registered Professional Surveyors. Holders of non-equivalent qualifications have to show to the Surveyors Registration Board that they have passed equivalent examinations and received suitable professional experience before they will be accepted for registration. In handling a disciplinary offence, the Surveyors Registration Board will appoint not less than three HKIS members to form an ad hoc inquiry committee. A review committee comprising three members of the Surveyors Registration Board will also be set up to examine the decision made by the inquiry committee.

The general inference from the provisions of the Surveyors Registration Ordinance is that HKIS should uphold the surveying professional standard and that HKIS should play the regulatory role. HKIS should attach more im-



portance to the need to pass examinations and receive suitable professional experience in maintaining its membership admission criteria. HKIS should emphasize professional ethics.

Therefore, when we come to determine our own corporate values, it is important that HKIS should be branded as a local regulatory body to uphold surveying professional standards and ethics. We all need to be aware of what people will think of HKIS when they look at our membership quality. I have put across the issues of HKIS brand values for discussion at this council year's first Executive Committee meeting

## 素質的認知

元之始，萬象更新；首先祝願各位 2006年興旺發達。

香港測量師學會去年經歷了好幾方面的變化，我們嘗試改變運作和專業規範，我們也嘗試修訂學會章程及則例。不管這些改變是否達到預期的目標、或是有些觀點從某些會員的角度來說是不可取的，我們確實是從中加深了對學會的認識並上了寶貴的一課。

扼要重述，學會必須要用開放和公平的態度處理所有來自不同測量專業範疇會員的顧慮。在瞬息萬變的社會裏，我們要重新思考學會的價值觀；在急速融合的國際市場裏，我們更要把學會的定位做得老實通透。一如我在週年大會上發言，我們要牢牢地維護測量專業的水平，保持強勁的競爭力。

香港測量師學會於1984年成立。1990年通過了《香港測量師學會條例》(香港法例1148章)，賦予香港測量師學會法定地位；1991年再通過《測量師註冊條例》(香港法例417章)，根據該法例成立「測量師註冊管理局」。按照《測量師註冊條例》，香港測量師學會有法定責任去委任來自學會的「測量師註冊管理局」成員參與事務；「測量師註冊管理局」應該擁有不少於12位來自香港測量師學會的成員，而另外一位成員則由特區行政長官委任。「測量師註冊管理局」的宗旨是負責專業測量師的註冊，及對該等已註冊專業測量師的專業操守作出監管。

held on 29 December 2005. All divisional chairmen will seek divisional views for further discussion at the General Council meetings. Hopefully, we will come up with some new statements on our corporate values and mission very soon. Should members have any comments and suggestions, please do not hesitate to let your divisional councils or the Junior Organization Committee know. You may also approach me directly using my email address: [president@hkis.org.hk](mailto:president@hkis.org.hk).



香港測量師學會會籍是成為「註冊專業測量師」的資格。持非等同香港測量師學會會籍資格的申請人士，必須證明其資格，是經通過考試和取得相關的專業經驗，方才獲得「測量師註冊管理局」考慮申請。

一般對《測量師註冊條例》的演繹，是香港測量師學會要維護測量專業水平，而且有責任做監管的工作。香港測量師學會應該不斷提高對專業考試和專業工作經驗的要求，從而鞏固會員素質。香港測量師學會亦應該一如既往，貫徹執行學會對測量專業道德操守的重視。

由此可見，當香港測量師學會要打造「品牌」時，一定要清楚其價值觀的重要性。一 要成為測量專業標準和操守的管理機構。這個角色的首要條件當然是會員的素質，因為人們往往都是從這個角度得到對學會的第一個印象。在2005年12月29日，本屆的第一次執行委員會會議上，我提出了香港測量師學會「品牌」管理的議程，而且請求各組別主席進一步取得自身組別的意見，好讓理事會日後作出更深入的研究和探討，明確訂立學會的使命及價值觀。不管您是屬於那一個組別，如果您有任何意見，歡迎您電郵到：[president@hkis.org.hk](mailto:president@hkis.org.hk)。我期待著聆聽你們的聲音。

黃仲衡 會長

身體健康

萬事如意



*Kung Hei  
Fat Choy*

2006



## HKIS Annual General Meeting 2005



The Annual General Meeting 2005 took place in the Surveyors Learning Centre, Suite 811, 8/F Jardine House, One Connaught Place, Central, Hong Kong on Monday 12 December 2005 at 6:30pm. There was present the President, Mr TT Cheung in the Chair and 45 corporate members.

The meeting authorized the Chairman to sign the minutes of the Annual General Meeting held on 13 December 2004 as a correct record subject to: 2<sup>nd</sup> paragraph of item 7, name of seconder should read as "Mr Lam Kwok Wing". The motion was proposed by Mr Lam Kwok Wing and seconded by Mr Thomas Tse.



### PRESIDENT'S REPORT FOR THE YEAR 2004 / 2005

The meeting received and noted the President's Report for the year 2004/2005. The President briefed members on the Institute's activities during the year 2004/2005. The meeting confirmed the President's report. The motion was proposed by Mr Henry Chan and seconded by Ms Winnie Shiu.

### HONORARY TREASURER'S REPORT AND ACCOUNTS FOR THE YEAR 2004 / 2005

The meeting received the Honorary Treasurer's Report on the accounts for the year ending 31 July 2005 and audited accounts of the HKIS and Surveyors Services Limited. The meeting confirmed the report and the audited accounts. The motion was proposed by Mr Kenneth Yun and seconded by Mr Nelson Cheng.

### PROPOSED REVISIONS TO ANNUAL SUBSCRIPTIONS

The Honorary Secretary briefed members on the 3 resolutions to be voted and invited questions from the floor.

A question was raised by Mr Donald Reader on the

rationale for the 14.7% increment on annual subscriptions for Fellow members, while other grades were 10%. The Honorary Secretary replied that fellow

members were at a more senior level and believed that they would appreciate the effort of the Institute. Apart from that, from a financial point of view, Fellow members would be more able to afford a higher increment.

The Resolutions were put to vote by members. Mr Thomas Tse and Mr Lam Kwok Wing were nominated as scrutineers. (Voting results please see page 8.)

### ELECTION OF OFFICE BEARERS FOR THE YEAR 2005 / 2006

The Chairman read the list of nominations received for Office Bearers to the General Council for the year 2005/2006 and formally declared the following members were elected as Office Bearers:

#### Office Bearers

President	Mr WONG Chung Hang
Senior Vice President	Mr CHAN Yuk Ming, Raymond
Vice President	Mr YU Kam Hung
Honorary Secretary	Mr LEUNG Lap Ki, Francis
Honorary Treasurer	Mr CHENG Wai Hung, Nelson

The motion was carried unanimously.

### DECLARATION OF THE OTHER COUNCILLORS FOR THE YEAR 2005/2006

The Chairman read the list of nominations for Divisional Representatives to the General Council for the year 2005/2006 and proposed these members be elected:

#### Members

##### Building Surveying Division

Mr Edwin TANG Hoi Kwan  
Mr Alex WONG Loi Fat  
Mr Kenneth YUN Ying Kit

**General Practice Division**

Ms Serena LAU Sze Wan  
Mr CHIU Kam Kuen  
Dr Lawrence POON Wing Cheung

**Land Surveying Division**

Mr Dominic SIU Wai Ching  
Mr SUNG Hon Kwong  
Ms Rina TSOI

**Planning and Development Division**

Mr Edwin TSANG Ching Lun

**Property and Facility Management Division**

Mr Michael PRICE  
Mr Kenneth CHAN Jor Kin  
Mr Dick KWOK Ngok Chung

**Quantity Surveying Division**

Dr Paul HO Hok Keung

Mr Spencer KWAN Tin Che  
Mr Stephen LAI Yuk Fai

**Junior Organization**

Mr Billy WONG Kin Yee  
Mr Martin LEUNG Wai Chung

**Technical Grade**

Mr FUNG Chiu Kit

The motion was carried unanimously.

**APPOINTMENT OF PROFESSIONAL AUDITORS FOR THE YEAR 2005/2006**

The Chairman recommended on behalf of the Honorary Treasurer that the current professional auditor Fok Chan Leung Wan CPA Ltd be re-appointed as Professional Auditors for the year 2005/2006.

The motion was proposed by Dr Paul Ho and seconded by Mr Nelson Cheng.

**ANY OTHER BUSINESS**

1 A presentation of Certificate of Appreciation was made to members of the General Council 2004/2005. The Administration Office read out the list of members and the President Mr T T Cheung presented the certificates.



2 The outgoing President Mr TT Cheung handed over the President's Jewel to the incoming President Mr Wong Chung Hang and Mr Wong, in exchange, presented the Past President's medal to the outgoing President Mr Cheung.



3 Mr Wong Chung Hang presented his new President's address to the meeting. (Please see page 9.)

4 A question was raised by Mr Donald Reader on the way forward to compete with the direct membership of RICS. Mr Wong Chung Hang replied that the mechanism of the direct membership of RICS was not suitable in Hong Kong. Mr Wong added that the HKIS would attach more importance to the Assessment of Professional Competence and encourage more probationers to become corporate members next year. The Surveyors Registration Board would also consider the HKIS qualification as one of the major recognized standards for registration as a Registered Professional Surveyor.

5 The Chairman announced results of the poll for the proposed revisions to annual subscriptions. A total number of 651 votes including proxies had been received. The 3 resolutions (R1: in respect of annual subscription for various grades and ranks of membership;





R2: in respect of annual subscription for non-local members; and R3: in respect of concession on annual subscription for a member who is admitted, or whose membership grade or rank is changed after the commencement of subscription year) were all CARRIED by a majority vote of 63% (411 votes), 78% (508 votes) and 89% (581 votes) respectively.

6 Souvenirs were presented to outgoing ExCom and the 3 Boards Chairmen for their full support throughout the year.

7 There being no further business. The Chairman declared the meeting adjourned and thanked members for their attendance.



## Proposed revisions to annual subscriptions

### Resolution No 1

With effect from 1<sup>st</sup> April 2006, and in accordance with Bye-Law 9.1.3(a), the annual subscriptions for various grades and ranks of membership shall be as set out below:

Membership	Annual Subscription			
	Existing (HK\$)	Proposed (HK\$)	Change (HK\$)	Change (%)
Hon Fellow	0	<b>0</b>	0	0
Fellow	1,700	<b>1,950</b>	250	+14.7
Member	1,230	<b>1,360</b>	130	+10.6
Technical Associate	750	<b>825</b>	75	+10.0
Probationer	500	<b>550</b>	50	+10.0
Technical Trainee	300	<b>330</b>	30	+10.0
Student	50	<b>55</b>	5	+10.0

### Resolution No 2

With effect from 1<sup>st</sup> April 2006, and in accordance with Bye-Law 9.1.3(b), the annual subscriptions for non-local members shall be fifty percent (50%) of the prevailing rates.

### Resolution No 3

With effect from 1<sup>st</sup> April 2006, and in accordance with Bye-Law 9.1.3, for a member who is admitted, or whose membership grade or rank is changed after the commencement of a subscription year (i.e. 1<sup>st</sup> April), the following concessions on the annual subscription, or balance of annual subscription (i.e. difference between the annual subscriptions for the old and new grades/ranks) for the current year shall be applicable:

Date of Admission / Change of Grade or Rank	Concession on Annual Subscription / Balance of Annual Subscription	Remarks
1 <sup>st</sup> April to 30 <sup>th</sup> September inclusive	Nil	
1 <sup>st</sup> October to 31 <sup>th</sup> January inclusive	50%	
1 <sup>st</sup> February to 31 <sup>th</sup> March inclusive	100%	Upon payment of annual subscription for subsequent year

Resolution 議案	FOR 贊成	AGAINST 反對	VOID 無效	TOTAL 總數
1	411 (63.1%)	240 (36.9%)	0	651
2	508 (78.0%)	143 (22.0%)	0	651
3	581 (89.2%)	70 (10.8%)	0	651

## Address by the President 2005-06 at the Annual General Meeting held on 12 December 2005

### *Upholding Standards for Stronger Competitiveness*

I feel very honoured to be elected the President of the Hong Kong Institute of Surveyors. First of all, I would like to express my heartfelt gratitude to the outgoing President and all other members of the General Council for their efforts to achieve so many objectives that the Institute wanted to achieve in the past council year. It will be quite difficult for me as the incoming President to attain the same achievement in the coming council year. However, with your support I have confidence that together we can scale new heights.

Being a member of the outgoing General Council, I am aware of the situations that the Institute has been forced to tackle with in the past few years. Being the new President, I will try to preserve as many as possible those policies made by the outgoing council. At the same time, I will encourage the incoming General Council to review and redefine the Institute's strategic aims in response to new changes. New action plans should be derived and implemented to ensure the Institute's competitiveness.

By far, the most important issue that the Institute has to handle is to work out its branding strategy. In the face of competition, the Institute must enhance its unique identity in Hong Kong as well as in the mainland and internationally. I will put the corporate branding and its management as a priority item in the agenda of the incoming General Council. I hope all members of the incoming General Council will work together to explore more ways to create the right brand values for the Institute and to safeguard the Institute's position as the only surveying professional body established under the law of Hong Kong (the Hong Kong Institute of Surveyors Ordinance).

The Institute should strive to uphold professional

standards and focus on the Institute's overall competitiveness in an open society like Hong Kong. High professional standards will enhance the public image of professional surveyors. The Institute should support Government initiative to promote a strong sense of business ethics and safeguard public interests. To this end, the Institute has to take the responsibility of maintaining the standards of professional surveyors as conferred by the Surveyors Registration Ordinance.

I am also concerned about the continual development of the Institute. There is a need to increase communication between the divisions and the three boards, namely the Board of Education, the Board of Membership and the Board of Professional Development. I intend to increase the number of General Council meetings from four to six in the coming council year, hoping that issues regarding the recognition of non-local academic qualifications for admission, the bridging between technical and professional memberships, the certification of specialized surveyors so on and so forth will be handled in a more committed manner.

The Institute should continue to attach more importance to the Assessment of Professional Competence to ensure admission qualifications and experience requirements are up to the business demands in Hong Kong, in the mainland and internationally, particularly in South East Asia. Other non-graduate entry schemes will be deliberated again in the coming council year. But such schemes must reflect the up-to-date requirements of the surveying professions, and must ensure high local and international recognition.

While the incoming General Council should continue to work on membership expansion, I expect there will be sufficient measures to protect the standards of professional surveyors.



The divisional councils will be entrusted to collect views within their divisions and to make recommendations to the General Council on all constitutional and membership issues.

Although most of the times the office bearers have to take the lead, I would like to say that at working level the Institute is actually run by the divisions and advised by the boards. I always believe that only when divisions and boards perform well, the

Institute will then have the power to proceed further. I am looking forward to working with all the new office bearers, divisional chairmen and the board chairmen. I have perfect confidence that all of us will be happy to share the increasing burdens on the Institute in facing the constant and rapid changes in Hong Kong.

Wong Chung Hang  
President 2005-2006

### 維護專業標準以增強競爭力

我非常榮幸能夠獲選為香港測量師學會會長。首先，我非常感謝去屆會長及各位理事對學會所付出的努力，達成很多過去一年學會想達成的目標。這使我作為今屆會長較為困難再取得同樣的成績，不過，得到你們的支持，我有信心大家一起可以再創新高峰。

作為前任的理事，我瞭解到學會在過去數年需要處理的事情。作為新任會長，我會盡量保留去屆理事會所制定的政策。與此同時，我會鼓勵新一屆理事會去重新探討和定立學會的策略目標以面對新的挑戰，新的計劃必須制定和執行以確保學會的競爭力。

學會現時最需要處理的事項顯然是為學會打造品牌的策略，學會在面對不同的競爭下必定要增強本身在香港、國內、以至國際的獨特性。我將會把機構品牌及其管理作為新一屆理事會的優先議題。我希望各位理事能並肩努力去探究出更多方法為學會建立正確的品牌價值，以及維持學會作為香港（根據香港測量師學會條例成立）唯一法定的測量專業組織的地位。

學會應致力維護專業標準和關注學會在香港這個如此開放市場的競爭力。優秀的專業標準有助提高專業測量師在市民心目中的形象。學會應該支持政府促進執業道德及保護公眾利益。為此，學會要負起測量師註冊條例賦予的責任去維持專業測量師的標準。

我亦十分關心學會的持續發展。學會有需要加強各個組別及三個委員會之間的溝通，即教育委員會、會籍委員會及專業發展委員會。我打算把未來一年的理事會會議次數由四次增加至六次，藉此希望能夠更投入地處理有關非本地學歷資格的認可、技術和專業會藉之間的連結、專門測量師的認證等問題。

學會應該繼續重視專業評核試，以確保入會的資格及經驗是符合香港、國內以至國際尤其是東南亞地區的商業需求。其他非大學畢業生的入會計劃將會在未來一年內再商議。惟此計劃務必反映測量專業的最新要求，以及保證其在本地和國際的認受性。

當理事會繼續為擴大會員數目工作的同時，我亦期望能訂定立足夠的措施以維持專業測量師的標準。組別理事會將會被委託去搜集組別內的意見及提交有關會規和會藉事宜的建議給理事會。

雖然學會的事務在大部分時間都由執行理事所領導，但我可以說學會的工作是由不同組別理事會所負責及依賴三個委員會的寶貴意見。我一直相信祇有各個組別理事會和委員會表現良好，學會才有能力向前邁進。我期望與新的執行理事及各個組別和委員會的主席們合作。我亦充滿信心大家可以一同處理學會所面對不斷增加的事務和應付香港經常和迅速的轉變。

黃仲衡 會長  
2005-2006



## 2005年十大樓盤頒獎典禮 (HKIS Property Marketing Award 2005)

香港測量師學會「2005年十大樓盤頒獎典禮」於12月6日在香港銅鑼灣怡東酒店順利舉行，並取得圓滿成功。市區重建局董事總經理林中麟太平紳士列席主禮嘉賓。

評審委員會主席暨香港測量師學會會長(2004-2005)張達棠在致辭時說，去年香港測量師學會首次舉辦「十大樓盤頒獎典禮」，得到空前的成功，今年學會再接再勵，對在2004年度推出的優異樓盤作出評審和嘉許，並希望透過是次活動增加各界對物業推廣的認識及強調市場推廣對物業銷售的重要性。今年學會跟去年一樣頒發三個項目大獎，包括(1)十大市場推廣大獎、(2)十大樓書大獎及(3)十大樓則大獎；並會從各大獎項中，選出本年度的「2005年最佳大獎」。張先生又強調學會希望藉著「十大樓盤頒獎典禮」，使更多同業得到認同，進一步推動物業市場推廣的專業性。

評審委員會名譽總監梁振英則說一個地產發展項目的成功要素，已不僅限於該項目的地理位置。近年來，地產項目的包裝和市場推廣往往成為銷情的關鍵。打造一個成功樓盤，市場推廣策略舉足輕重，而市場推廣策略並不限於樓盤促銷，也包括在樓宇興建前的各種部署。建築造型、單位大小、內部間隔、樓盤主題，以至命名及樓書設計等都要經過週詳考慮。因此，脫穎而出的樓盤，在市場推廣各方面都要有出色獨到的表現。梁先生又補充說今年參選的樓盤各具特色，每個樓盤都因應各自市場定位，採用不同的推廣策略和手法，要從中選出優勝者，評判團費盡不少心思。他更希望通過這個評選活動，能進一步提升物業市場的市務水平，使物業推廣策略和手法更精益求精，為市場加添活力。梁先生覺得各得獎者實至名歸，並向他們表示衷心祝賀。

評審委員會副主席余錦雄則提到產業測量師一直在房地產業擔當著重要角色。除估值、管理及顧問服務工作外，產業測量師同時提供專業的房地產仲介服務。近年來，市民追求優質生活，對物業質素及設施的要求日漸提高。於這種新形勢下，透過創新的推廣思維策略及市場定位，突出物業優勢，是仲介的成功關鍵。香港測量師學會旨在透過「十大樓盤頒獎典禮」，加深市民對物業推廣工作的瞭解和認同，並與大家分享發展商如何透過出色的市場推廣，突出物業的優點，並配合嶄新的付款方式，令置業人士可以覓得安樂窩。同時，學會亦希望本地一眾同業，能借鏡這些成功案例，以其專業知識及靈敏的市場觸覺，繼續對社會及房地產界作出貢獻。餘又恭賀各物業順利獲選，並多謝各界人士對這項別具意義的盛事之鼓勵及支持。

籌委會主席張一輝說由香港測量師學會舉辦的「十大樓盤頒獎典禮」，今年已經是第二屆。本屆的參選樓盤都是在2004年內推出的，多達45個項目，涉及發展商逾25家。要公平地作出評審，是有賴多達60位學會會員參與，他們在前期的評審過程中不辭勞苦地聯絡各發展商，搜集及製作有關資料齊全的比對報告，以供各評審委員作評分之用。此外，更編制得獎書籍和安排整個頒獎典禮的進行。評審委員經過對各發展商三次反覆專業篩選後，得獎名單才呼之欲出，只有最佳之樓盤才能獲得此項殊榮，所以得獎者確實是實至名歸。是次頒獎禮能夠圓滿舉行，他又感激各發展商所提供的足夠資料及充分合作，使籌委會的審核工作更全面和更順利。張一輝又說在籌辦這屆「十大樓盤頒獎典禮」的整個過程中，他和全體參與的會員都深深感受到這是一件非常有意義的事，明白到推廣樓盤的專業及重要性，加深了認識推廣樓盤的專業工作，這些都是值得全力支持及嘉許的。





### 評審委員會

- 主席** 香港測量師學會會長張達棠 (2004-2005)
- 副主席** 香港測量師學會產業測量組主席余錦雄 (2003-2005)
- 學術顧問** 香港大學房地產及建設系鄒廣榮教授  
香港理工大學房地產學系許智文教授  
香港城市大學建築科技學部潘永祥博士
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## Top Ten Property Marketing Project Award 十大市場推廣大獎

強調市場推廣對物業銷售的重要性，一個好的市場推廣是一個整體的宣傳策略，由用料、設計、選用推廣媒體、處理傳媒手法、印製樓書及宣傳刊物、善用地產代理、設計付款方法和優惠等，都能切合既定的方針來鎖定目標群，從而加強銷售能力。最重要的是每一個推廣項目都有本身的弱點，市場推廣策略是以包裝的方法，減低弱點的影響力，透過明確主題包裝加上創意，提升項目的整體形象。

## Top Ten Property Sales Brochure Award 十大樓書大獎

售樓說明書（俗稱「樓書」）在物業推廣計劃中佔有極其重要的地位，它既是物業資訊的主要來源，亦是展現推廣主題的最佳媒介，而一本好的樓書應適當地平衡資料性與藝術包裝，以細緻用心及創意，吸引準買家注目，並在他們心中建立良好的第一印象。而樓書作為介紹物業狀況的最主要途徑，其首要作用是向準買家提供全面而準確的物業資料，讓他們無須親臨樓宇現場便可從樓書中瞭解有關的物業。本獎項的設立目的是為提高各界對售樓說明書的注意程度，並提倡樓書的編排應從買家的角度出發，提供清晰、齊備及容易閱讀的資訊，讓買家更能掌握物業狀況。



## Top Ten Flat Layout Award 十大樓則大獎

住宅樓宇是日常生活的必需品，它的設計好與壞將會直接影響住客的生活質素。本獎項的設立是為提倡優質住宅單位設計應從用家的角度出發，除考慮建築面積及實用面積之比例，更要結合人與大自然等軟性原素，讓住宅建築在解決基本生活需求的同時，更可照顧到住客的品味、生活習慣，以至健康、環保、舒適感等更深層的概念。

### 獎項摘要

#### 2005年十大市場推廣大獎

##### 全年最佳市場推廣大獎

— 嘉亨灣 (Grand Promenade)



##### 得獎項目名稱

- |           |                                 |
|-----------|---------------------------------|
| 君臨天下      | (The Harbourside)               |
| 映灣園 — 悅濤軒 | (Caribbean Coast - Carmel Cove) |
| 珀麗灣第三期    | (Park Island Oceanfront)        |
| 晉名峰       | (The Grandville)                |
| 富豪海灣      | (Regalia Bay)                   |
| 歌賦山道28號   | (28 Gough Hill Road)            |
| 碧堤半島第二期   | (Bellagio Phase 2)              |
| 窩打老道8號    | (8 Waterloo Road)               |
| 爵悅庭       | (Chelsea Court)                 |





**2005年十大樓書大獎**

**全年最佳樓書大獎**

— 映灣園 (Caribbean Coast)



**得獎項目名稱**

- 君臨天下 (The Harbourside)
- 珀麗灣 (Park Island)
- 香島道33號 (33 Island Road)
- 晉名峰 (The Grandville)
- 富豪海灣 (Regalia Bay)
- 嘉亨灣 (Grand Promenade)
- 碧海藍天 (AquaMarine)
- 碧堤半島 (Bellagio)
- 爵悅庭 (Chelsea Court)



**2005年十大樓則大獎**

**全年最佳樓則大獎**

— Grosvenor Place



**得獎項目名稱**

- 君臨天下 (The Harbourside)
- 金巴利道26號 (Kimberley 26)
- 香島道33號 (33 Island Road)
- 晉名峰 (The Grandville)
- 高爾夫景園 (Golf Parkview)
- 御翠園 (Greenery Gardens)
- 富豪海灣第二期 (Regalia Bay Phase 2)
- 嘉珀山 (The Caldecott)
- 歌賦山道28號 (28 Gough Hill Road)



## Tamar development and Central Reclamation Phase III

In reply to a letter from Legco of 25 November 2005 inviting the Institute to express its views on "Tamar development project and land-use planning for Central Reclamation Phase III", the Institute has responded on 9 December as follows.

### Re-launch of the Project

It is unfortunate that Government had to defer the Tamar development project due to the outbreak of SARS in 2003. Hong Kong has rapidly recovered and the economic climate in Hong Kong as well as the financial strength of Government have much improved during the last two years. HKIS believes that it is good time for Government to re-launch the Tamar development project.

Government has to rent office space in other privately owned office buildings currently due to shortage of office space in Government buildings. Such problem can be solved by construction of the new Central Government Complex at Tamar. The implementation of this project can locate civil servants conveniently and facilitate workflow with better co-ordination between the public and different departments of Government. It is believed that this can also improve the efficiency and effectiveness of civil servants in a new and modernized office building.

According to data from a leading surveying consultancy firm as listed in Figure 1, it is clearly shown that there is a lack of supply of Grade A office space in Core Central in coming few years while the vacancy rate of office space in Core Central has kept decreasing due to the large amount of take-up in the past few years. It is clear that the rental of the Grade A office space in Core Central has drastically increased in the past two years. In 2004, the amount of take-up of Grade A office space in Core Central is over 1,160,000 sq ft. However, such value dropped about 40% in 2005 and the amount of take-up of Grade A office space in surrounding area like Wan Chai has increased from around 13,000 sq ft to around 450,000 sq ft. This phenomenon shows that current supply of Grade A office space

in Core Central is definitely not enough. Nevertheless, there will only be about 119,000 sq ft new supply of Grade A office space in Core Central in the next three years. This problem will adversely affect business development in Hong Kong due to inadequate supply and extremely high rental cost of Grade A office space. As a result, the competitive advantage of Hong Kong over other international cities as an international business and financial centre will be challenged.

The relocation of Central Government in Core Central will give opportunities for redevelopment. This can provide adequate supply of office space for future redevelopment which is very important since it is expected that the supply of office space in Core Central will be in shortage in the long run as explained above.

There are suggestions that the proposed project should be constructed in sites such as Kai Tak. However, those suggestions are immature because it requires a lot of time for Government to do the feasibility studies as well as public consultation. Besides, a further planning process will be required for rezoning by the Town Planning Board which may need a further 2 years or more before tendering process. This means that the project would be further deferred if Government decided to look for the possibility of implementing the project in alternative sites.

In particular, unemployment in the construction industry remains very serious although the economic condition of Hong Kong is better than before. According to the figures from the Census and Statistics Department, the unemployment rate in the construction industry is higher than 11% in the first nine months of 2005 whereas the overall

Figure 1 Grade A office new supply, take-up and vacancy rate in Core Central and Wan Chai

Year	Core Central				Wan Chai			
	New Supply (sq ft net)	Take-Up (sq ft net)	Vacancy Rate (%)	Rental (\$/sq ft/month)	New Supply (sq ft net)	Take-Up (sq ft net)	Vacancy Rate (%)	Rental (\$/sq ft/month)
2003	1,520,000	528,033	16.50	\$15 - 25	0	87,424	6.97	\$10 - 15
2004	0	1,162,600	7.46	\$25 - 35	474,000	12,957	12.01	\$15 - 22
2005*	335,896	599,171	5.28	\$35 - 45	0	455,566	4.50	\$22 - 30
2006**	119,000	—	—	—	0	—	—	—
2007**	0	—	—	—	0	—	—	—
2008**	0	—	—	—	0	—	—	—

\* As at November 2005 \*\* Forecasted values Source : A leading surveying consultancy firm



unemployment rate is only around 5.7-6.0% for the same period. More employment opportunities in the construction industry should be created as soon as possible by implementing more construction projects in Hong Kong.

### Project Scope

As stated in the press release from Government titled "Developing Tamar into prime civic core accords with community long-term interest" dated 16 November 2005, Government has suggested imposing a specific height restriction of 130mPD to 160mPD as the maximum ceiling for new buildings to be developed at Tamar thus reducing development intensity. HKIS agrees that these suggestions can make the project more compatible with the environment. The new height restriction is lower than the allowable maximum building heights of 180mPD as specified in the Approved Central District (Extension) Outline Zoning Plan (OZP) No S/H24/6. Furthermore, the total floor area of the project will be reduced when compared with the proposal in 2003. The total construction floor area (CFA) of the proposed Central Government Complex will be reduced from 136,200m<sup>2</sup> to 110,030 m<sup>2</sup> while the Legco Complex will be reduced from 36,000 m<sup>2</sup> to 26,020 m<sup>2</sup>. This can ensure that there will not be a great increase in the area per floor of the buildings due to the new building height restriction. Moreover, Government suggests that the previously proposed Exhibition Gallery will be excised from the scope of project in order to reduce the development intensity. The above measures will help to preserve the beautiful harbour view as well as an open view of the prominent ridgeline. This can definitely ease concerns from the public since the new proposal is better than the original proposal in 2003.

The Government is committed to developing a Civic Place of at least 2 hectares at Tamar as a recreational open space according to the OZP, serving as green space for leisure and enjoyment of the public whilst integrating the future Waterfront Promenade to form part of extensive open space network in the new central waterfront. This is a good idea in order to give an excellent space for the public to enjoy the waterfront. The total area of open space will amount to more than 47% of the total area of the Tamar site so that the public can have an opportunity to enjoy the harbour. However, when this site was sold to the private developers for commercial development, it might be difficult for Government to promote the green area in this site. This would affect public interest.

Based on the above points, the proposed Tamar devel-

opment project can bring a huge amount of benefit to Government, the public and the economy of Hong Kong.

### Views on land-use planning for Central Reclamation Phase III

According to the OZP, about half of reclaimed area is zoned "Open Space" (about 8.78 ha or 47%). This can provide more area for recreational activities and also a vibrant waterfront promenade for direct access and enjoyment by the public and tourists as well. Currently, one major problem in the Central District is the lack of green area.

A certain amount of reclaimed area (about 2.71 ha or 14%) is zoned for roads and other ancillary uses. This can provide necessary transport infrastructure such as the Central-Wan Chai Bypass to ease traffic congestion since currently there are not enough roads in Central. Traffic congestion may become even more serious with more high-rise buildings.

The extent of reclamation has already been scaled down from 32 ha to 18.73 ha in response to public concern. In particular, only about 14% of reclaimed area (2.63 ha) is zoned "Comprehensive Development Area". This can ensure the long-term supply of high quality Grade A office space in Core Central and relieve the shortage problem, whilst maintaining the competitive advantage of an international business and financial centre in Hong Kong.

The Institute concluded that these views are mainly related to suitability of timing to re-launch the Tamar development project, its project scope and also the land-use planning for the Central Reclamation Phase III.

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 Submission of full paper : 15 February 2007

For enquiries, please email the Secretariat at:  
[info@hkis.org.hk](mailto:info@hkis.org.hk) or call (852) 2526 3679

For details on the HKIS, please visit: [www.hkis.org.hk](http://www.hkis.org.hk)

For details on the FIG Working Week 2007,  
 please visit: [www.fig.net/fig2007](http://www.fig.net/fig2007)

## HKIS representative in PCICB Working Group

The Institute has nominated Professor Barnabas Chung as a representative in the Work Group on Building Environmental Performance Assessment Schemes of the Provisional Construction Industry Co-ordination Board.

## PD promulgating new PDPN



The Planning Department has advised the promulgation of a new Planning Department Practice Note (PDPN) for Professional Persons No. 5/2005 on the "Basis for Determining Class A and Class B Amendments under Section 16A of Town Planning Ordinance". Please visit [http://www.pland.gov.hk/tech\\_doc/practice\\_note/index\\_e.html](http://www.pland.gov.hk/tech_doc/practice_note/index_e.html) to view the PDPN.

For enquiries, please call the Planning Department, HKSARG on (852) 2231 4771.

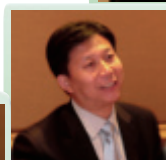
## 國家青年測繪專家代表團來訪學會 (State Bureau of Surveying and Mapping Delegation visits HKIS)

2005年 11月30日國家測繪局人事司副司長劉小波率領團員：北京市測繪設計研究院室主任，高級工程師張海濤；福



建省基礎地理信息中心副主任，教授及高工簡燦良；河北省基礎地理信息中心主任，高級工程

師何建國；山西省基礎地理信息院副院長，高級工程師李建平；甘肅省基礎地理信息中心副總工，工程師曹建君；上海市測繪院地信中心總工，高級工程師畢俊；國家測繪局大地測量數據處理中心，高級工程師程傳錄；黑龍江



測繪局極地測繪工程中心主任



高級工程師馬林波；黑龍江測繪局極地測繪工程中心副主任，高級工程師孫曉生；中國測繪科學研究院重點實驗室副主任，研究員唐新明；國家基礎地理

信息中心副處長，高級工程師商瑤玲；國家基礎地理信息中心副處長，高級工程師陳現軍和國家測繪局外事辦公室高工及代表團秘書顧納來訪學會。



當時的高級副會長黃仲衡，土地測量組主席邵偉青及青年組主席林力山作出了接待。黃先生向代表團詳細的介紹了學會歷史及架構，雙方又交換了有關測繪專業的最新消息。

## IVSC

KK Chiu, HKIS representative to the International Valuation Standards Committee (IVSC) has reported to the Ex Com that it has been approved that the Hong Kong Institute of Surveyors is now a Full Board Member of the IVSC. It was further reported that Bob Connolly, the representative of API, has been elected Chairman of Standards Board;

Nigeria has been elected representative of Developing Country Representative to replace the existing member from Tanzania. Lastly, it was heard that the next Board Meeting will be held in Bucharest, Romania in late April 2006 and the next Annual General Meeting will be held in Shanghai in late September 2006.



## Building Surveying Division Chairman's Message



Edwin Tang  
BSD Council Chairman

The AGM was held on 2 December 2005 at World Trade Centre Club. My Chairman Report and the Hon Treasurer's Report have been uploaded in our website. I would like to thank the outgoing council members and the JO representatives for their wholehearted support throughout the council year.



We need more volunteers to help one way or the other. Any members who wish to serve as co-opt members may send an email to me at [ehktang@hkis.org.hk](mailto:ehktang@hkis.org.hk).

### Working Group on Consultation Paper on Mandatory Building Inspection

The working group has conducted a Discussion Forum on 14 December 2005. Based on the views collected, they have sent out Questionnaires to HKIS members (by broadcast) so as to solicit more opinion especially on some controversial issues. The result will certainly help the working group in finalizing their responses to the Consultation Paper.

### Building Surveying Division 2005-2006 Council Members

<p><b>Chairman</b> TANG Hoi Kwan, Edwin</p>	<p>LI Kwok Wah, Edgar LO Rebecca TSE Chi Ming, Philip YEUNG Tak Wah, Denny YUN Ying Kit, Kenneth</p>	<p><b>Fellow Members</b> CHEUNG Kwok Ho, Richard CHONG WH Ben CHOW KM Augustine CHUNG Hung Kwan, Barnabas CHUNG WK Bishop HO Kwok Keung IP CK Andrew KAM Man Yiu, Philip LAI WY Anthony LAM Horace LAW PS Anny LEE CY Gordon SUEN Wai Cheung, Kenny WONG SN Benson YIU Miu Shan Catherine</p>
<p><b>Vice Chairmen</b> WONG Loi Fat, Alex</p>	<p><b>Immediate Past Chairman</b> CHAN Yuk Ming, Raymond</p>	
<p><b>Hon Secretary</b> LEE Hoi Tat, Nathan</p>	<p><b>JO Representatives</b> LAU Wing Shan, Jo WONG Kin Yee, Billy</p>	
<p><b>Hon Treasurer</b> LEUNG Chi Tim, Robin</p>	<p><b>Co-opted Members</b> DY Wai Fung, Peter WONG Kam Wah WONG Pui Yee, Cecilia YEUNG MK Gary</p>	
<p><b>Council Members</b> CHAN Kwok Hung, Kenny FU Chi Kwong, Edward HO Kui Yip, Vincent KUNG Sui Lun, Andrew LAM Wai Keung, Andrew</p>		

### 2005年首屆中國工程項目管理論壇

2005年首屆中國工程項目管理論壇，由主辦單位中國建設監理協會及上海市建設工程諮詢行業協會全力推動，並獲中國建設部市場管理司及上海市建築業辦公室支持，於2005年12月18日至20日在上海同濟大學舉行，是次論壇相當成功，參加人數眾多，由預期250人增加至400多人，香港測量師學會方面亦應邀出席，由建築測量組副主席及義務司庫

協調安排講者代表學會參加是次論壇，講者成員有：陳旭明先生、劉智強先生及何鉅業先生，題目圍繞着香港建築測量師於大型發展項目及小型改建復修及維護工程項目中所擔任之



策略、計劃、管理角色及實踐，為建築測量行業在內地得到一個很好的推廣機會。

### 與中國建設監理協會之互認協議草擬及互認資格

除參加論壇外，團員亦藉此機會向中國建設監理協會提交了

與建築測量組之互認協議草擬及互認資格，香港方面之主要要求有：(1) 需具有3年或以上香港建築測量師會員資格；(2) 第一批互認人數不得超過60人、雙方對等；(3) 過去3年內有從事工程管理工作的經歷，具職業道德、信譽良好及無不良記錄；(4) 並需通過16小時之培訓和面試才取得資格。預計於2006年首季互認協議可進一步達成共識。

## 全港樂安居一樓宇安全嘉年華

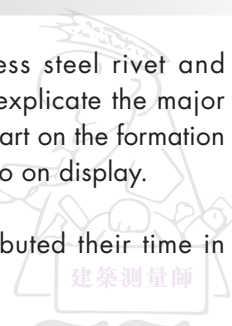
### Building Management and Maintenance Carnival 27 November 2005

The carnival, co-organized by the Buildings Department and the Hong Kong Housing Society, was at the Kowloon Park.

The Building Surveying Division and the Property & Facility Management Division jointly manned the I exhibition cum game booth for the day. Models of aluminum window

and samples of aluminum/stainless steel rivet and stainless steel screw were used to explicate the major cause of falling windows. A flow chart on the formation of an owners' incorporation was also on display.

Thanks to all members who contributed their time in manning the booth.



## General Practice Division Chairman's Message



Serena Lau  
GPD Council Chairperson

With the Lunar New Year soon to arrive, I would like to take this opportunity to wish all members a prosperous New Year!

This Council has its first meeting held on 1<sup>st</sup> December 2005 and 12 working panels, with slight modification to the operational structure established in the past two years are formed. Here, we must express our sincere thanks to all outgoing Council members, co-opted members and panel members, led by Chairman Yu, who have tirelessly worked for the Council during the past two years.

### Visit your HKIS web site

The operation of the Council shall not be a secret to members. Otherwise, it would be easy to come to misunderstanding and complaints. Thus, an effective communication channel with you, our valued members, is essential. To me, a member as well, waiting for the monthly Surveyors Times to learn the Council's activity is not enough. Many things happen everyday and a lot more you may wish to know and understand on time. As Chairman of the Division, I have the duty to ensure



## 2005-2007 Council Year Working Panels

Working Panel	Convenor	Working Panel	Convenor
APC	KWAN Susanna	Internal Communication	NG Ivan
Business Valuation Standards	HO Joseph	Membership & Technical Associate	AU Edward
CPD and Education	WAN Tony	Professional Development	LEUNG Monita
Disciplinary & Professional Ethics	LAM Jim	Property Valuation Standards and Practices	PANG Lawrence
External Affairs	CHIU Kam Kuen	Public Relations	LAU Serena
Government Practices and Local Affairs	LAU Chun Kong	Sales & Letting	CHEUNG Ronald

## General Practice Division 2005-2007 Council Members

<p><b>Chairman</b> LAU Sze Wan, Serena</p> <p><b>Vice Chairmen</b> CHAN Chiu Kwok, Charles CHIU Kam Kuen PANG Ho Chuen, Lawrence Dr POON Wing Cheung, Lawrence</p> <p><b>Hon Secretary</b> CHAN Hon Kwong, Louie</p>	<p><b>Hon Treasurer</b> CHENG Hoi Lai, Simon</p> <p><b>Council Members</b> AU Sing Hei, Edward AU YEUNG Ming Him, Brian CHEUNG Yat Fai, Ronald FONG Wai Ying, Angela FOK Eugina KWAN Ping Wan, Susanna HO Chin Choi, Joseph</p>	<p>LAM Yam On, Jim LAU Chun Kong LEUNG Lai Hung, Monita NG Shui Kwong, Ivan WAN Wai Ming, Tony WONG Ho Ming, Augustine</p> <p><b>Immediate Past Chairman (ex-officio)</b> YU Kam Hung</p> <p><b>JO Representative</b> LEUNG Wai Chung, Martin</p>
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that proper communication between the Council and members is maintained and I will try to bring you more messages – via HKIS web site. These sentences in fact were extracted from the bi-weekly message of which I have already uploaded to the HKIS – GPD web site. Hot issues such as About Valuation Standards on Properties, List of Registered Business Valuers of the Hong Kong Business Valuation Forum and web site issues can be found. I am not going to repeat here and hope that you will visit [www.hkis.org.hk](http://www.hkis.org.hk) to explore the content.

### Future of the GPD – the way forward

This is not a new topic. In the last two years, we have witnessed the formation of the Property and Facility Management Division, the establishment of the Hong Kong Business Valuation Forum and the consideration of Certification system by the Board of Professional Development. It is now time to review and ask ourselves what is a “GP Surveyor” and think about the future of the GPD. We trust members active feedback is important to the Council.

December and January are busy months for new Council

members as well as Convenors to follow up on outgoing council works, call for helpers, set out the terms of reference and action plans of the working panels. I shall keep you informed at all times via HKIS web site.

### Property Marketing Award

The Property Marketing Award was again a success and a great showcase for the GPD and the Institute. Congratulations to Ronald and the Organizing Committee!



## Land Surveying Division Chairman's Message



Dominic Siu  
LSD Council Chairman

The first LSD council meeting was held on 4 December following the election of LSD council members for 2005-2006 in the AGM which had been held on 17 November. I am pleased to be re-elected as chairman for another term.

The proposed change of Regulation for the Nomination of members in LSD council introducing two more new seats especially for Technical Associate (TA) was passed in the AGM. It certainly is a good start to involve technical associates to participate in the discussion process on divisional matters and hopefully the division can provide better services and support to TA.



The other resolution in the AGM to change the existing APC rules and guides of LSD reducing the requirement of two specialised area of work to one specialised area was carried by majority votes.

### Recent ruling of the Final Court of Appeal on Adverse Possession

Together with Sung Hon Kwong, Vice-chairman and Henry Chan, Spokesman, I met the press on 6 January 2006 immediately after the ruling of Final Court of Appeal that property tycoon Lee Shau-kee had extinguished his ownership over plots of land in Tai Po to an 84 year old lady. We have urged property developers and potential land purchasers to seek professional advice on adverse possession first to safeguard their interests in land. You may click <http://www.hkis.org.hk/general/Newspapers7.1.2006.rar> to view the papercuttings relating to the above Adverse Possession case.



### Winning a lucky draw

As the HKIS representative to the Gala Dinner of the First Asia-Pacific Conference, where HKIS is an Institutional Partner, on 13 January organised by ESRI, I won a cash prize of US\$100 in the Lucky Draw. The full amount will be credited to the account of LSD council for organising functions and activities.

### Land Surveying Division 2005-2006 Council Members

<p><b>Chairman</b> SIU Wai Ching, Dominic</p> <p><b>Vice Chairman</b> SUNG Hon Kwong</p> <p><b>Hon Secretary</b> TSOI Rina</p> <p><b>Hon Treasurer</b> TANG Sze Kin, Eric</p> <p><b>Council Members</b> CHAN Hon Kwan, Henry</p>	<p>CHAU Ming, Marvin CHENG Wai Pun KWOK Chi Wo, Simon LAI Lit Ki, Ricky LAM Lik Shan, Lesly LEUNG Chi Yan, George LEUNG Kin Wah, Ray LO Hoi Yin, Maris MA Ka Chun, Eric NG Wai Tak, Victor SHAM Po Fai, Terry TANG Hong Wai, Conrad TANG Wing Lun WOOTEN Ian</p>	<p>YIP Hon Wah, Frankie</p> <p><b>Co-opted Members</b> CHAN Kwan Ho, Eric LAU Chun Wa, Penfield</p> <p><b>TA Representatives</b> CHUNG Tin Yeung FUNG Chiu Kit</p> <p><b>JO Representative</b> CHAN Chi Hung, Kenny</p> <p><b>Student Representative</b> CHAN Wai Chung, Wilson</p>
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## Planning & Development Division Chairman's Message



Edwin Tsang  
P&DD Council Chairman

The General Council on 10 November 2005 approved the following members: Francis Lam, Albert So, Markus Li, Norman Ngai, William Yip, Kenny Kong and Yeung Ka Lai as Planning and Development Division members through Multiple Membership arrangement. At its 2<sup>nd</sup> AGM on 23 November 2005, 10 members were elected as council members. The same AGM approved the

upgrading of the Provisional Divisional Council to Full Council status. The 1<sup>st</sup> Division Council Meeting was also held on the same date. The Council will focus on the admission of new members through APC exams and multiple membership arrangement. The 1<sup>st</sup> CPD course will be conducted by Professor Barnabas Chung on the development aspect.

### Planning and Development Division 2005-2006 Council Members

<p><b><u>Chairman</u></b> TSANG Ching Lun, Edwin</p>	<p><b><u>Council Members</u></b> SO Albert LAM Kempis CHENG Eureka YIP William KONG Kenny</p>	<p><b><u>Chairman</u></b> <b><u>(Professional Development Committee)</u></b> SO Albert</p>
<p><b><u>Vice Chairmen</u></b> LAU Francis LAM Francis</p>	<p><b><u>Chairman (Education Committee)</u></b> LAM Francis</p>	<p><b><u>Convenors</u></b> <b><u>(Research &amp; Public Affair Committee)</u></b> YIP William KONG Kenny</p>
<p><b><u>Hon Secretary</u></b> LI Markus</p>	<p><b><u>Chairman (Membership Committee)</u></b> LAU Francis</p>	<p><b><u>Convenors (CPD Committee)</u></b> TSANG Edwin LAU Francis</p>
<p><b><u>Hon Treasurer</u></b> NGAI Norman</p>		



## Synergy Creates Quality Building Reflects Value

QBA is a biennial award co-organized by building and construction related professional bodies and is a recognition of concerted effort by all building professionals to enhance building quality for the betterment of Hong Kong.

**Presentation Conference: 8 July 2006**  
**Award Presentation Banquet: 14 July 2006**

Honorary Advisor  
The Hon Patrick SS Lau, SBS, JP  
Member (Functional Constituency – architectural, Surveying and Planning)  
The Legislative Council, HKSAR

For enquiries, please contact the QBA 2006 Secretariat Office at tel (852) 2372 0090 or fax (852) 2372 0490 or email: enquiry@QBA2006.com or visit: www.QBA2006.com

# Property & Facility Management Division Chairman's Message



Michael Price  
PFMD Council Chairman

The Property & Facility Management Division inaugural annual general meeting was held on 28 November 2005. Members are now able to register separately as P&FM surveyors through the Surveyors Registration Board. You may get the form from the HKIS Secretariat, please either email: [info@hkis.org.hk](mailto:info@hkis.org.hk) or call (852) 2526 3679.

Members working in Property Management, Facility Management, Asset Management, and Corporate Real Estate Management fields are really encouraged to join the division. So far, we have over 620 members. Since our AGM, we have been working on comprehensive CPD for our members, the early introduction of APC / ATC, the drawing up of guidelines for council members and one and five year plans for the division. All these I will take pleasure in sharing with you in the next issue of Surveyors Times. If you wish to help, we are always very grateful for members' input. Please feel free to contact Ms Rebecca Tsoi on 2844-4915 or [rebeccatsoi@swireproperties.com](mailto:rebeccatsoi@swireproperties.com) in the first instance.



## Property & Facility Management Division 2005-2007 Council Members

### **Chairman**

PRICE Michael

### **Vice Chairman**

CHAN JK Kenneth

### **Hon Secretary**

KWOK NC Dick

### **Hon Treasurer**

LAM Kwok Wing

### **Council Members**

Academia 1	CHAN KH Kenny
Facility Management 1	CHAN JY Stephen
Facility Management 2	CHOW SL Elaine
Facility Management 3	TAM Shiu Hong
Facility Management 4	CHEUNG TT
Property Management 1	HO YK John
Property Management 2	WONG S Alan
Property Management 3	YEUNG MK Gary
Government I & Public 1	LAI CP Charles
Government I & Public 2	HUI WL Daniel

Government I & Public 3 HUNG CK Charles

### **JO Representatives**

CHENG Jean

LAM Lesly

### **Co-opted Members**

CHAN Terence

LAI Gary

LAM Samuel

TANG Eddie

WONG Catherine



## Quantity Surveying Division Chairman's Message



Dr Paul Ho  
QSD Council Chairman

**I**t is great pleasure to be elected QSD Chairman for the year 2005-06. The last QSD council had dealt with several major tasks such as the standard form of building contract, standard method of measurement and reciprocity agreement with CECA so on and so forth, and I would like to thank all council members for their great contribution and dedicated efforts, without which we could not have the many fruitful achievements.

It is also opportune to share some of my views on the tasks that the QSD aims at achieving in the year 2005-06:

### *Mainland China*

Further to the reciprocity agreement with CECA, QSD has recently conducted the required training and assessment in Guangzhou. There is definitely a lot of follow-up work with CECA. Subject to the announcement of assessment results, HKIS will have about two hundred new QS members and this Division will remain the largest division within HKIS in terms of membership number.

All can witness the situation that China, as a developing country, has grown at an exceptionally fast rate and has been offering a lot of opportunities for the QS profession. The development of cost engineering or QS profession in China has also grown at the same fast rate. It is expected that CECA will absorb most of our professional knowledge within the coming five to ten years. The QS profession has to consider how to maintain our long-term sustainability in China. It would be necessary to further increase our influence in China. In this connection, QSD may set up a small liaison office in Beijing. QSD may also consider accepting more senior experienced CECA members as HKIS members.

### *International*

In the past, internationalization was not an issue of concern to the local profession. Nowadays, however, the local business environment is not the same as in the past. Quantity surveyors are looking for business opportunities throughout the world. In order to ensure that our members can work or undertake projects beyond borders, we have to increase our influence in the international platform.

Indeed, the professional competencies of our members are very high when compared with many overseas professional institutions; it is very certain that the QSD has a good potential to take a leading role in the international arena.

Besides the consideration of job or business opportunities, young QS members may also wish to obtain some international qualifications. Thus, QSD would explore the possibility of signing certain MOU (if not reciprocity agreement) with PAQS member institutions so that our members would have better status and recognition and may even be able to work outside of Hong Kong when necessary.

### *Conditions of Contract*

QSD successfully launched the new standard form of building contract last year. In this connection, there are two remaining tasks. The first task is to promote the new standard form of contract and the second is to complete the "without quantity" version. In addition, QSD is also preparing the standard maintenance contract.

### *SMM*

QSD successfully held a launching ceremony for the new SMM last year. The few tasks that QSD has to follow may include: to promote the new SMM to the industry by organizing various CPD seminars and liaising closely with Government departments and QS firms to see whether they would use the new SMM; the second task is to set up a standing committee to review the new SMM by inviting the original drafting members and some new members to join the standing committee. The third task is to translate the SMM into Chinese so that QSD can promote the new SMM in China.

### *APC Reform*

QSD has to reform the existing APC for a number of reasons. Firstly, QSD has to promote other related professional skills for the local QS profession. In the UK, most QS firms do not do many traditional QS works; rather, they diversify into a wide range of professional services from project inception to its completion including long-term facilities management. In addition, all universities in

Hong Kong are now offering generic surveying program. Strategically, the profession should capture their broader knowledge base to provide diversified surveying services rather than narrowing their knowledge within the traditional QS field. On the other hand, other divisions within HKIS only require a training period of two years, whereas QS still maintains three years. How can we attract good surveying graduates to enter into the QS profession is a critical issue. Furthermore, HKIS recently signed a mutual recognition of qualification with RICS. This also leads us to reform the existing APC so that the training period would be generally in line with RICS, while maintaining the professional standard of newly qualified members. Probably, certain structured training and continuous assessment model have to be considered.

### ATC

The relevant rules and guides for ATC were approved by the General Council last year. QSD is now in a position to hold the required assessment of technical competence. QSD will also actively promote the technical membership to educational institutions.

### Professional Practices

Promotion of professional practices is one major task for the QSD, hoping that some pamphlets on professional practices will be published within this year.

### Standard Specification and Schedule of Rates for Maintenance Work

BSD and QSD have formed a joint working group for drafting a standard specification and schedule of rates for the maintenance work. Together with the maintenance contract, these will form a set of standard documents for the industry to carry out the maintenance works in a professional manner.



### Promotion of QS Profession

Nowadays, marketing is important. QSD will produce a video and other pamphlets for the promotion of the QS profession. QSD will also take this opportunity to promote other QS related services such as building services and civil engineering surveying.

### MSc graduates visit HKIS

A delegation of MSc graduates from the Mainland headed by Professor Ge Zhen-ming of the Tongji University in Shanghai visited the HKIS on Monday 16 January 2006. On behalf of the QSD Council, I received the delegation apart from giving an introduction of the HKIS as well as a detailed description on the quantity surveying profession.



### Quantity Surveying Division 2005-2006 Council Members

<b><u>Chairman</u></b> HO Paul	<b><u>Hon Treasurer</u></b> HO Daniel	CHAN Ricky CHAN Sunny CHEUNG Ivan	MAN Antony TANG KC TANG Steven
<b><u>Vice Chairman</u></b> KWAN Spencer	<b><u>Immediate Past Chairman</u></b> CHENG Sam	CHIANG John CHUNG Stephen HO Thomas	TUNG Gregory YAM KS YEUNG Franki
<b><u>Hon Secretary</u></b> LAI Stephen	<b><u>Council Members</u></b> CHAN Jervis	KWOK Evenlyn LAU Anthony	YIM Keith



## Junior Organization Chairman's Message



Billy Wong  
JO Chairman

**K**ung Hei Fat Choi and wishing you and your family a fruitful and prosperous new year! It is my honour to be the new JO chairman and I would like to express my sincere thanks to all the past committee members and co-opted members for the support and contribution for the success of council year 2004-05.

I would like to thank the newly elected J.O. Committee members and Co-opted members for their commitment for this council year.

The 1<sup>st</sup> and 2<sup>nd</sup> JO committee meetings were held on 6 December 2005 and 3 January 2006 respectively. Several OC meetings for planning and organizing upcoming CPD and social events were also held. Most of the plans are in the pipeline and I am pleased to report some of new initiatives for this year.

### Structured CPD

Thanks for the support from senior members and divisional councils, we have scheduled APC series of CPDs, workshops & camps especially for students and probationers for the preparation of APC.

### Social Development

To promote the importance of a healthy life, we have planned to organize different nature of social activities for all members. (Parts of our plans are as follows:)

- Hiking
- JO Basketball Competition
- Dragon Boat Races
- Tai-Chi Class (tentative)
- Latin/Salsa dance (tentative)

### A link between the Institute and students

Regular universities visits will be arranged. Students are also encouraged to involve in the planning, organizing and participation of JO events.

Looking ahead, the year 2006 will be a year full of challenge and commitment. I would like to cordially invite you to join as co-opted members for the delivery of the events and share with us with great fun.

For any ideas or suggestions, please feel free to contact me at [wongbilly@hkis.org.hk](mailto:wongbilly@hkis.org.hk)

### Junior Organization 2005-2006 Committee Members

<b><u>Chairman</u></b>		TSE Doris	GP	<b><u>Co-opted Members</u></b>	
WONG Billy	BS	LING Emily	GP	MA Eric	LS
		NG Kelvin	GP	CHAN Phoebe	LS
<b><u>Vice Chairman</u></b>		WONG Jeffrey	GP	CHAU Ray	LS
LEUNG Martin	GP	TSE Philip	GP	NG Wai Wang	LS
		CHENG Raymond	GP	CHAN Wilson	LS
<b><u>Hon Treasurer</u></b>		IP Sheldon	GP	SIU Cyrus	BS
LAU Victor	QS	CHAN Kenny	LS	LI Joanmi	BS
		WONG Joseph	LS	CHUNG Michelle	BS
<b><u>Hon Secretary</u></b>		TSOI Rina	LS	YAU Simon	BS
CHENG Jean	GP	CHEUNG Arthur	BS	LAI William	BS
		CHENG Grace	BS	LEE Shannon	GP
<b><u>Deputy Secretary</u></b>		TEE Hazel	BS	CHAN Antony	QS
CHONG Joseph	QS	LAU Jo	BS	LEE Josephine	QS
		MOK Sylvia	BS	YUEN Louis	QS
<b><u>Committee Members</u></b>		LIM Vincent	BS	FONG Raymond	QS
KONG Karen	QS			CHAN Sunny	QS
KWOK Joanna	QS	<b><u>Immediate Past Chairman</u></b>		LAM Samuel	PFM
CHAN Claudia	GP	LAM Lesly	LS		

## CPD/HKIS/2005078

The Joint Contract Working Committee (JCWC) was set up in early 2005 with the consensus of its stakeholders, the three sponsoring professional institutes. The JCWC has helped to launch the Standard Form of Building Contracts on 11 April 2005 and will continue to promote the new Contract through organizing CPD events.

### Standard Form of Building Contract 2005 – Road Map for Professional Liabilities & Relationship between Main and Sub-Contractors



6:30pm – 8:00pm

Thursday 23 February 2006

Surveyors Learning Centre, 811 Jardine House, 1 Connaught Place, Central, Hong Kong

**Guest Speakers** Gregory Tung, BSc(QS)(Hons), LLM, FRICS, FHKIS, MCI Arb, Barrister (non practising), Director of James R Knowles (Hong Kong) Limited – Mr Tung is a Chartered Quantity Surveyor, a contributor to various construction industry journals and an experienced construction contract consultant specializing in drafting of contracts, sub-contracts and claims documentations; providing contractual advice; pursuing and defending claims on clients' behalf; conducting and representing clients in arbitrations in construction and insurance cases in building and civil engineering projects at both main contract and sub-contract levels; sitting as arbitrator and as dispute resolution advisor; and delivering seminars.

Gilbert Kwok, FHKIS, FRICS, LLB (English law), LLB (Chinese law), Past Chairman of the Quantity Surveying Division, HKIS, Partner and Head of the Construction Group of Li & Partners - Mr Kwok is a chartered surveyor and a qualified Hong Kong lawyer. He has extensive experience in drafting and advising on construction contracts, consultancy agreements and other relevant contracts relating to a wide range of construction projects in the region including Hong Kong, Macau, PRC as well as outside Asia such as Africa and South America. He has also acted on behalf of employers, contractors and consultants in various construction litigations and arbitrations.

Kelvin Chan, BSc (QS) (Hons), LLB, Solicitor, Consultant of Li & Partners – Mr Chan has been involved in litigation and arbitration of various types of construction projects and also in drafting various types of construction contracts. Before joining Li & Partners, Mr Chan had been the head of the legal department of a blue chip developer in Beijing for more than 3 years. He is therefore also familiar with real estate and construction transactions in the Mainland.

Dennis Wong, LLB, Solicitor, Assistant Solicitor of Li & Partners – Mr Wong graduated from the University of Sydney with a Bachelor Degree in Laws and a Bachelor Degree in Commerce (major in Accounting and Economics). Mr Wong was admitted in both New South Wales, Australia as well as in Hong Kong and has undertaken a wide range of predominantly contentious work, acting for professionals, employers, main contractors and subcontractors in respect of building and civil projects. He has also been involved in non-contentious construction work such as reviewing and drafting design and build contracts and supply contracts

**Details** The new edition of the Standard Form of Building Contracts (SFBC) including the main contract, nominated sub-contract and the nominated supply contract have already been published. This seminar in the series will be presented by Messrs Li & Partners and Messrs James R Knowles (Hong Kong) Limited focusing on the "Road Map for Professional Liabilities & Relationship between the Main and Sub-Contractors".

This CPD event will provide a detailed analysis of professional (Architects and Surveyors) liabilities under SFBC and the relationship between Main and Sub-Contractors under the new form of nominated sub contract.

**Language** English and supplemented by Cantonese  
**Fee** \$100 per person  
**Deadline** 16 February 2006

**Priority** Members of the HKIA / HKICM / HKIS  
a first-come-first-served basis (max 200 persons)



## CPD/LS/2006014

### Insight into Deep Bay Link Project – From Concept to Construction



**Guest Speaker** Ir Eric Chan CEng, MStructE, MHKIE, MIHT, Technical Director of Ove Arup & Partners HK Limited, Project Manager of the Deep Bay Link Project, Chairman of Institution of Highways and Transportation (IHT) Hong Kong Branch.

**Date & Venue** 6:30 pm – 8:00 pm Tuesday 21 February 2006 SLC HKIS

**Details** Deep Bay Link is a 5.4km long, dual three-lane, elevated expressway connecting Yuen Long Highway at Lam Tei and Hong Kong-Shenzhen Western Corridor at Ngau Hom Shek to form the fourth vehicular border crossing in Hong Kong due for opening in mid-2006. The project comprises two construction contracts namely the Deep Bay Link Southern Section and the Northern Section Contracts.

There are two interchanges respectively at Lam Tei and Ha Tsuen where there are several kilometers of slip roads. The mainline will pass over Yuen Long Highway, Castle Peak Road, West Rail and Light Rail. The widening of 2 km of Yuen Long Highway from dual 2-lane to 3-lane is also included in this project.

The talk will discuss about the planning and options considered to overcome the constraints during the feasibility study and the detailed design stage, as well as the construction aspect.

**Language** English  
**Deadline** 14 February 2006

**Fee** \$100 per person  
**Priority** LSD Members

## CPD/BS/2006011

### Integrated Site Safety Supervision System



**Guest Speaker** Philip CT Kwok, Senior Structural Engineer, Site Monitoring Section, Buildings Department

**Date & Venue** 7:00 pm – 8:30 pm Wednesday 22 February 2006 SLC, HKIS

**Details** The three types of supervision requirements under the Buildings Ordinance namely site safety supervision, quality supervision and qualified supervision of geotechnical works have been in force for over some years. The Buildings Department had set up a Working Group with the industry to review these supervision systems. The Working Group recommended to integrate the existing supervision systems under a new Integrated Site Supervision System and to simplify the basis and method for computation of supervision requirements. The new system was implemented on 31 December 2005 to tie in with the new requirements of Registered Geotechnical Engineers. In this talk, features of the new system and the amendments to the Technical Memorandum and Code of Practice will be elaborated.

**Language** English  
**Deadline** 15 February 2006

**Fee** \$100 per person  
**Priority** BSD Members

## CPD/JO/2006007

### Hong Kong Construction Contract Dilemma 香港常用施工合同的兩難處



**Guest Speaker** KC Tang, FHKIS, FRICS, RPS(QS), AVS, Director of K C Tang Consultants Ltd. (Quantity Surveyors, Construction Cost and Contract Consultants), with over 29 years professional experience in quantity surveying.

**Date & Venue** 7:00 pm – 8:30 pm Wednesday 15 March 2006 SLC, HKIS

**Details** Should the terms of construction contracts be harsh or lenient? Obviously, employers would like harsh terms while contractors would like lenient terms. Is it really good to put in harsh terms in the contracts? Harsh terms or lenient terms have own their pros and cons. They can often be double-edged swords. Contract drafters will unavoidably face dilemma situations where they will have to make a difficult choice. The speaker will highlight some of these dilemmas to provoke thinking.

# CPD/PQSL EVENTS

<b>Language</b>	English	<b>Fee</b>	\$100 per person
<b>Deadline</b>	1 March 2006	<b>Priority</b>	Probationers and Students

## CPD/JO/2006009

### BS APC Workshop 2006 Part 1 – Procurement Strategies for A & A works



**Guest Speaker** Dr Edward CY Yiu, BSc, MPhil, PhD, MRICS, MHKIS, MBE, PFM, Chartered Building Surveyor, Assistant Professor at Department of Building & Construction, The City University of Hong Kong

**Date & Venue** 7:00 pm – 9:00 pm Monday 20 March 2006 SLC, HKIS

**Details** The selection of various procurement systems is very important to ensure a good start for a development project. This seminar will provide an insight on the concept of procurement systems and how their principles can be applied practically. It will also give an overview on the selection of different procurement strategies for the A&A projects in terms of tendering arrangement and forms of contract. The speaker will demonstrate to candidates ways to analyze the A&A tenders critically. The final part of this workshop will be a 30-minute Q&A section to facilitate a free discussion on the topic.

<b>Language</b>	English	<b>Fee</b>	\$100 per person
<b>Deadline</b>	6 March 2006	<b>Priority</b>	80 (BS Students and Probationers)

## CPD/JO/2006013

### Standard Form of Building Contract



**Guest Speaker** KC Tang, FHKIS, FRICS, RPS(QS), AVS, Director of K C Tang Consultants Ltd. (Quantity Surveyors, Construction Cost and Contract Consultants), with over 29 years professional experience in quantity surveying.

**Date & Venue** 7:00 pm – 8:00 pm Mondays 10 April 2006 and 24 April 2006 SLC, HKIS

**Details** The talks will be conducted in two sessions. The speaker will walk with the audience through the “old” version of the Standard Form of Building Contract which will still be in use for some time to help candidates for APC clarify common mistakes or misunderstanding. Improvements introduced in the 2005 version will also be briefly touched upon. Heavy dialogues with the audience will be established to generate interested topics and cultivate memories for the future. Further sessions may be added depending on demand.

<b>Language</b>	English	<b>Fee</b>	\$100 per seminar / \$150 for 2 seminars
<b>Deadline</b>	27 March 2006	<b>Priority</b>	Probationers and Students

## PQSL/JO/2006012

### APC Series – Basics of Cost Planning and Cost Estimation



**Guest Speaker** Victor Lau, BSc(QS), MSc, MHKIS, MRICS, ACI Arb

**Date & Venue** 7:00 pm – 8:30 pm Tuesday 28 February 2006 SLC, HKIS

**Details** Cost planning and cost estimation are important areas of approved working experience for Assessment of Professional Competence (APC). The aim of this seminar is to help candidates to understand the fundamental concepts and basic skills for the preparation of cost plan and cost estimate, including the use of cost data, preparing estimates for various types of developments, undertaking feasibility and comparative design studies as well as interpreting cash flow projections. The speaker is a senior quantity surveyor of a private consultancy firm and is experienced in giving pre-contract advice to clients.

<b>Language</b>	English	<b>Fee</b>	\$70 per person
<b>Deadline</b>	21 February 2006	<b>Priority</b>	Probationers and Students



**PQSL/JO/2006008**

## An Introduction of Office Leasing in Hong Kong and Brief Market Overview

**New**

**Guest Speaker** Jeffrey CH Wong, MSc, MRICS, MHKIS, RPS, Associate Director, Savills (Hong Kong) Limited

**Date & Venue** 7:00 pm – 8:30 pm Wednesday 29 March 2006 SLC, HKIS

**Details** Jeffrey is responsible for strategic real estate planning and financial analysis work for corporate clients apart from providing advisory service in relation to clients' occupational property portfolios; specialist transactional expertise; rent review and lease renewal or restructure consultancy services.

The seminar will cover:

- Leasing Strategy for Grade A commercial office in Hong Kong
- Office market overview since year 1997 and forecast
- How to manage a portfolio leasing project

**Language** Cantonese supplemented by English

**Fee** \$70 per person

**Deadline** 15 March 2006

**Priority** Probationers and Students

SLC, HKIS = Surveyors Learning Centre, 811 Jardine House, 1 Connaught Place, Central, Hong Kong. For enquiries, please call 2526 3679.

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## Housing market in times of interest rates rise

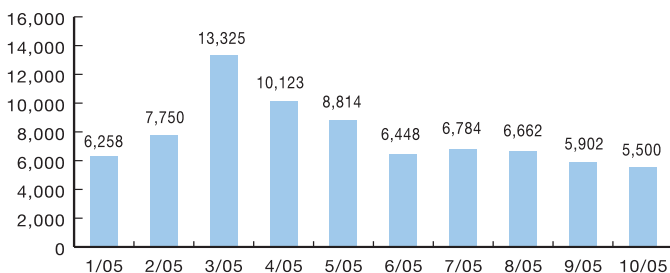
Thomas Li  
Alvin Lim  
Midland Surveyors Limited

The interest rates hike has begun since March 2005 and the current mortgage rate has risen from an average of 2.625% to 5.5% at the end of October. And is still rising.

### Second Hand Market

The result has triggered a dampening effect on the second hand market. As can be seen in Chart 1, the number of second hand transactions fell from 13,325 in March to only about 5,500 (an estimate) in October, a fall of a staggering 60%.

**Chart 1 Sales Volume Trend in the Second Hand Market**



N.B. : The monthly sales volume is reflected in the transaction volume recorded by the Land Registry the following month. Hence, the volume for October 2005 is just an estimate.

Sources : Land Registry and Midland Realty's Research Department

Rising mortgage rates means extra burden to home purchasers and it is natural that the volume of transactions would fall. Yet the fall also attributes to the relative attractions of first hand (new) flats. After a lull in the summer months, developers have accelerated the pace in launching their sales (See Chart 2). Coupled with the benefits offered by developers in first hand sales, it is again natural that some purchasing powers have been diverted to the developers' coffers.

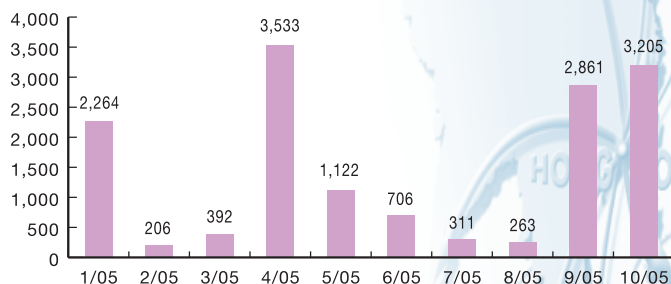
Second hand sales remain sluggish because, on one hand, purchasers have adopted a more cautious attitude, mainly for fear of further interest rates hikes. On the other hand, vendors are optimistic upon the news of sky-high first hand flat prices and the higher-than-expected land auction results. They are reluctant to lower their prices. Transactions, therefore, remain stable.

### First Hand Sales

In fact, through various sources of supply developers have

now assembled a sizeable amount of development land and are prepared to launch their flats in the market. Chart 2 shows the number of first hand units offered in 2005.

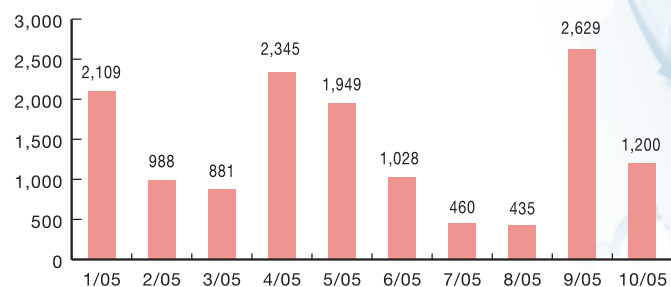
**Chart 2 Overview of Residential Project Launches**



Source : Midland Realty, Research Department

To alleviate the difficulties of rising mortgage rates, developers have teamed up with finance institutions to offer fixed rate mortgages or other attractive packages such as initially interest-free, installment-free programs. The result, as shown in Chart 3, is that transactions have stayed above the 1,000 mark except the low months of July and August.

**Chart 3 Overview of Residential Property Transaction Volume in the First Hand Market**



N.B. : The monthly sales volume is reflected in the transaction volume recorded by the Land Registry the following month. Hence, the volume for October 2005 is just an estimate.

Sources : Land Registry and Midland Realty's Research Department

### Positive Factors

Despite some sluggish sales in the second hand market, the housing market is moving along a right track. Two things are positive. First, despite an increase since late 2003, house prices are still considerably lower than that in 1997, when the market peaked. Second, the affordability ratio for homeowners is a reasonable 36%. These are the sound footings on which a healthy growth can be expected.



## 論國際商務仲裁裁決之承認及執行

### A discussion on recognition and enforcement of arbitral awards in international commercial arbitration

洪溢鴻 Laputa Hung  
MHKIS MRICS  
MCI Arb RPS(QS)

#### Abstract

Following the increase in the economical and international cooperation between different countries, the international commercial disputes increase continuously. Due to the special features of arbitration, many countries, in general, adopt arbitration as the effective and major method of resolving international commercial disputes. However, some recalcitrant parties are not in their interest to perform the award voluntarily, so the problem of recognition and enforcement of arbitral awards, especially for those arbitral awards to be enforced in other states, are drawn attention to be concerned. Due to the existence of the differences between China's and Hong Kong's arbitration law and system, the problem of recognition and enforcement of arbitral awards in two different jurisdictions but in one country after China resumed the exercise of sovereignty over Hong Kong, and the importance of the grounds which may be invoked for refusal of recognition and enforcement of an arbitral awards, it is important and worthy to study the problem of recognition and enforcement of arbitral awards in international commercial regime. In this paper, the essential features and elements of international commercial arbitration and development of arbitration law and system in China and Hong Kong would be examined. Further, by considering the relevant arbitration statutes and the practical problem in enforcing the international arbitral award made between China and Hong Kong, the issues about the grounds for refusal of recognition and enforcement of an international commercial arbitral awards, judicial supervision system on arbitration, the special arrangement between China and Hong Kong regarding the arbitral awards issued therein and the major international convention would be examined and analyzed.

#### Key Words

International Commercial Arbitration, Recognition and Enforcement of Arbitral Awards, Judicial Supervision System on Arbitration, International Convention.

#### 摘要

隨著經濟的發展和國際交往的頻繁開展，國際商務爭議隨之而增加。由於仲裁的特性，世界各國普遍利用仲裁作為解決

國際商務爭議的主要方式。但並不是所有敗訴方都會自動履行仲裁裁決的內容，所以仲裁裁決的承認與執行，特別是在域外的承認與執行問題得到普遍關注。由於中國與香港的仲裁法制存在著諸多差異，且香港回歸後還涉及到同一主權國家內部兩個不同法域之間的仲裁裁決的承認與執行問題，而仲裁裁決的承認與執行的理由的成立與否，直接關係到裁決的內容是否得到最終的實現。因此，研究國際商務仲裁裁決的承認與執行問題具有十分重要的意義。本文主要從瞭解國際商務仲裁的基本特性及要素和兩地仲裁法的演進及法律體系，並結合相關立法的規定及香港回歸後香港法院對內地仲裁裁決的承認與執行所遇到的問題，從比較法的角度對國際商務仲裁裁決不予承認與執行的問題、仲裁的司法監督制度、中國與香港之間對於仲裁裁決的承認與執行的特別安排及國際間的主要公約作一探討及分析。

#### 關鍵字

國際商務仲裁，仲裁裁決的承認與執行，仲裁的司法監督，國際公約。

#### 前言

隨著國際經濟貿易的迅速發展，國際商務爭議亦隨之而增加。為了尋求快速和有效解決當事人之間的爭議，世界各國普遍將仲裁作為解決國際商務爭議的一種主要手段。其中一些主要原因是由於仲裁具有自治性、中立性、靈活性、快捷性、仲裁判決的可執行性等特點<sup>1</sup>。因此，各國都積極將其國內的仲裁法及有關規範修改，並加快完備不足之處。其中包括指定仲裁法、專門規定國際商務仲裁的有關問題和設立常設仲裁機構受理或專門受理國際商務仲裁的案件。但是，由於各國在制定國際商務仲裁法及有關規定時，都會考慮自己的國情，因此各國的仲裁制度常有差異。在仲裁協定、仲裁程式以及仲裁裁決的承認與執行方面，各國往往各行其是，給當事人帶來不便，也不利於國際商務仲裁的健康發展。

另一方面，商務仲裁一般是指商務關係中的雙方當事人通過合意，自願將有關爭議提交第三者，即仲裁員或公斷人審理，由其依據法律或依公平原則作出裁決，判斷彼此間之爭議誰是誰非，並承諾自覺履行該裁決所確定的義務的一種制度<sup>2</sup>。雖然這種制度是一種與商務訴訟平行的法律解決方式，但商務仲裁畢竟與商務訴訟不同。如在仲裁庭作出仲裁裁決後，敗訴方不自動履行時，即時出現仲裁裁決“執行”的問題。在這種情形下，由於仲裁機構本身不具有強制執行商務仲裁裁決的權力及在仲裁庭作出裁決後仲裁庭亦不復存在，

勝訴方只能請求有管轄權的法院承認和強制執行該商務仲裁裁決，以實現裁決的內容。此種由國家機關，依據仲裁裁決為執行名義，使用國家之強制力，強制敗訴方履行裁決的內容，即為仲裁裁決的執行，故仲裁裁決的執行，是仲裁裁決內容實現的最終方法。惟執行本身，涉及國家司法主權的問題，而國家司法主權亦只能延伸到一國領域之內。因此，在一國領域內執行仲裁裁決，一般而言，其程式較為簡單，反之，外國仲裁裁決的執行，在其能夠被執行前，即出現所謂“承認”的問題。由於各國的國內法及各國內部不同法域之間對於商務仲裁裁決的承認和執行的規定不一，當一項商務仲裁裁決需要在他國或其他法域被承認和執行，就需要以有關國家的國內法及國際條約為依據，通過國際及區際間的司法協助才能實現最終仲裁裁決的內容，所以，國際商務仲裁裁決的“承認”及“執行”，是整個國際商務仲裁制度的癥結所在。沒有可執行的裁判，如何完善的仲裁制度都只是徒勞的。

過去廿年，中國與外國的經貿連系有巨大的增加，所以隨著商務契約的大量增加，商務糾紛也相對增加。如同其他國家，幾十年來，仲裁已逐漸成為中國解決糾紛的常同手段。所以，外國仲裁裁決在中國的承認與執行，即變得十分重要。本文以下即針對國際商務仲裁裁決於中國和香港承認與執行，以及中國的仲裁裁決於香港地區相互承認與執行的問題，逐一加以論述，並兼論其他與國際商務仲裁裁決的承認與執行有關的問題，以比較中國與香港對國際商務仲裁裁決的承認與執行的法制差異。

## 一 國際商務仲裁的概念

一般而言，國際商務仲裁<sup>3</sup>是包含有涉外因素或國際因素的商務仲裁。對於什麼是“涉外”，什麼是“國際”，什麼是“商務”或“商業”，眾說紛紜。目前國際上並沒有普遍接受的概念，各國的規定也有所不同。傳統國際私法認為，涉外民商事法律關係，或者國際民商事法律關係，或者國際私法關係，是指民商事法律關係的主體、客體和內容這三個要素中至少有一個要素同外國有聯繫，即民商事法律關係的主體一方或各方為外國自然人、無國籍人、外國法人、外國國家或國際組織；或者民商事法律關係的客體位於國外；或者民商事法律關係的內容與外國發生聯繫，也就是說，產生、變更或消滅民商事權利義務關係的法律事實發生於國外。<sup>4</sup>

根據國際商會<sup>5</sup>對《國際商會仲裁規則》所出版的說明，對“國際”一詞有這樣的理解：“..... the international nature of the arbitration does not mean that the parties must necessarily be of different nationalities. By virtue of its object, the contract can nevertheless extend beyond national borders, when for example a contract is concluded between two nationals of the same State for performance in another country, or when it is concluded between a State and a subsidiary of a foreign company doing business in that State”<sup>6</sup>。從這個理解來看，國際商會採用一個較為廣義的解釋去包括任何涉外要素的仲裁。

另外，1985年《聯合國國際貿易法委員會國際商事仲裁示範法》(以下簡稱為《示範法》)對國際仲裁作了更為廣義的界定。該《示範法》第1條第(3)款規定：“仲裁如有下列情況即為國際仲裁：(a)仲裁協議的當事各方在締結該協議時，他們的營業地點位於不同的國家；或(b)下列地點之一位於當事各方營業地點所在國以外：(一)仲裁協定中確定的或根據仲裁協定而確定的仲裁地點；(二)履行商事關係的大部分義務的任何地點或與爭議標的關係最密切的地點；或(c)當事各方明確地同意，仲裁協議的標的與一個以上的國家有關。”這一規定顯示出按照當事人的合意來確定什麼是國際仲裁的傾向，大大豐富了“涉外”或“國際”的內涵。

而1995年《中華人民共和國仲裁法》(以下簡稱為《仲裁法》)對何謂涉外仲裁或國際仲裁未作明確規定。但中國最高人民法院1988年4月2日發佈的《關於貫徹執行〈中華人民共和國民法通則〉若干問題的意見(試行)》第178條第1段是這樣限定“涉外民事關係”的：“凡民事關係的一方或者雙方當事人是外國人、無國籍人、外國法人的；民事關係的標的物在外國領域內的；產生、變更或者消滅民事權利義務關係的法律事實發生在外國的，均為涉外民事關係”。<sup>7</sup>最高人民法院1992年發佈的《關於適用〈中華人民共和國民事訴訟法〉若干問題的意見》第304條規定：“當事人一方或雙方是外國人、無國籍人、外國企業或組織，或者當事人之間民事法律關係的設立、變更、終止的法律事實發生在外國，或者訴訟標的物在外國的民事案件，均為涉外民事案件。”<sup>8</sup>從上述兩個規定來看，最高人民法院所理解的“涉外”為傳統國際私法上講的“涉外”，即法律關係的三個因素至少有一個因素同外國有聯繫。在中國涉外仲裁的實踐中，一般將外國法人及/或自然人同中國法人及/或自然人之間，外國法人及/或自然人之間，中國法人及/或自然人之間產生於國際或涉外的契約性或非契約性的經濟貿易等爭議中的仲裁案件，視為涉外仲裁案件。<sup>9</sup>

至於何為“商事”，《示範法》解釋為：對“商事”一詞應作廣義的解釋，使其包括不論是契約性或非契約性的一切商事性質的關係所引起的種種事情。商事性質的關係包括但不限於下列交易：供應或交換貨物或服務的任何貿易交易；銷售協議；商事代表或代理；代理；租賃；建造工廠；諮詢；工程；許可證；投資；籌資；銀行；保險；開發協議或特許；合營和其他形式的工業或商業合作；貨物或旅客的天空、海上、鐵路或公路的運輸。

關於“商事”的含義，中國最高人民法院1987年的《關於執行我國加入的〈承認及執行外國仲裁裁決公約〉的通知》第3條作了一個解釋：根據我國加入該公約時所作的商事保留聲明，我國僅對按照我國法律屬於契約和非契約性商事法律關係所引起的爭議適用該公約。所謂“契約性和非契約性商事法律關係”具體的是指由於合同、侵權或者根據有關法律規定而產生的經濟上的權利義務關係，例如貨物買賣、財產租賃、工程承包、加工承攬、技術轉讓、合資經營、合作經營、勘探開發自然資源、保險、信貸、勞務、代理、諮詢服



務和海上、民用航空、鐵路、公路的客貨運輸以及產品責任、環境污染、海上事故和所有權爭議等，但不包括外國投資者與東道政府之間的爭端。”<sup>10</sup>

## 二 國際商務仲裁程式的要素

國際商務仲裁程式有以下四個重要階段：

**達成仲裁協定** 通過仲裁方式解決國際商務法律爭議，必須有由雙方當事人達成有效的仲裁協定。只有在這個前提下，當事人的爭議才能有效通過仲裁方式解決。對於達成仲裁協定的要求，目前國際社會各主要國家的國內立法和各有關國際公約都有同樣的規定。例如，《紐約公約》第2條第1、2款、《示範法》第8條第1款和《仲裁法》第4條。存在有效的仲裁協議，會產生兩個重要後果：(1)屬於仲裁協議標的的爭議不得提交法院解決。換句話說，當事人達成的仲裁協定，排除了法院對爭議的管轄權<sup>11</sup>。這是體現了對當事人選擇爭議解決途徑的權利的尊重；和(2)仲裁庭的組成及其管轄權和仲裁程式應符合仲裁協定的規定。另外，談到仲裁協議的意義，應注意所謂“獨立性”的概念。普遍接受的原則是，在法律上，仲裁協議與主合約或合約條款是相分離的，各自獨立的契約，其效力不受主合同效力的影響，即使主合同不成立、不存在、無效、失效或不可執行，仲裁協議的效力都不能因此而受任何影響。

**仲裁庭的組成** 當國際商務爭議依仲裁協議提交仲裁解決後，應依有關協議及法律規定組成仲裁庭。仲裁庭是指由當事人選定，或者其他有權機構依據當事人的授權、或依據法律或仲裁規則的規定所指定的仲裁員組成的，具體負責對已交付仲裁的法律爭議事項進行審理，並作出裁決的組織。可見，仲裁庭的成員就是仲裁員。在國際商務仲裁活動中，仲裁員是有關商務法律爭議的直接裁判者。而且，享有完全獨立的自由裁量權。所以，仲裁庭的組成或選擇適合的仲裁員是非常重要的。有很多資深的律師都有這樣的評價：“The choice of the persons who compose the arbitral tribunal is vital and often the most decisive step in an arbitration. It has rightly been said that arbitration is only as good as the arbitrators.”<sup>12</sup> 綜觀世界各國的商事仲裁法律制度，對仲裁員資格的規定主要包括一般的資格要求和特殊的資格要求兩個方面。作為仲裁員的一般資格要求，必須是具有全民事行為能力、具有人身自由的自然人；而且，一般還要求必須是未曾受過刑事處分或被開除公職的人。<sup>13</sup> 對於仲裁員特殊的資格要求，主要表現為兩個方面：一方面是道德品質要求，另一方面是專業素質要求。

**仲裁庭的決定** 經過仲裁審理後，即仲裁庭依法定程式組成後，按照仲裁法以及仲裁規則規定的程式和方式，對當事人之間發生爭議並提交仲裁的案件進行審理，一般應經過開庭準備、開庭開始、庭審調查、庭審辯論、評議和裁決這幾個階段，在查明爭議案件事實和認定證據的基礎上，適用法律和依據公平原則，就雙方當事人之間爭議的實體權利義務

關係並作出具有約束力的裁決。仲裁裁決書作出後，即產生法律效力。

**仲裁裁決的執行** 仲裁裁決生效後，當事人應當主動或儘快履行仲裁裁決所確定的義務。但由於敗訴方拒絕自動履行其義務時，勝訴方可向有管轄權的法院申請，由法院依照法定程式將仲裁裁決按其內容與要求強制性地付諸實現及執行。執行程式是仲裁制度的重要組成部分，是世界各國的普遍做法，亦是對當事人的權利得以實現的有效保證和充分發揮仲裁制度的作用和優越性。

## 三 中國的商務仲裁法的體系

中國現行的商務仲裁法的體系，主要包括國內立法、國際條約及司法解釋這3個方面。

**有關商務仲裁的國內立法** 中國有關商務仲裁的國內立法，主要有國家立法機關制定的《仲裁法》和《中華人民共和國民事訴訟法》(以下簡稱訴訟法)。此外，還包括國家立法機關和有立法權的國家行政機關在其他的一些民商事立法中所規定的一系列有關商事仲裁的條款。有關具體立法情況如下：

- (1) 《仲裁法》：1994年8月31日由全國人民代表大會常務委員會第9次會議討論通過，並於1995年9月1日起開始施行。該法分8章，共80條，就商事仲裁中的有關法律問題作了非常全面及系統的規定。
- (2) 《訴訟法》：1991年4月9日由第7屆全國人民代表大會第4次會議討論通過，並且同日公佈實施。該法主要在第12章、第21章、第28章和第29章的有關係款中就仲裁機構的管轄權、仲裁程式及仲裁裁決的承認與執行等方面的問題作了明確的規定。

**有關商務仲裁的國際條約** 中國有關商務仲裁的國際條約，主要包括20世紀80年代後參加的1958年《紐約公約》<sup>14</sup>及1965年《解決國家與他國國民投資爭議的公約》<sup>15</sup>。

此外，中國與世界各國在國際商貿交往合作過程中簽署了一系列涉及商務仲裁的雙邊貿易協議、投資保護協定和司法協助協議。在這些雙邊條約中，一般都規定了允許有關當事人將商務爭議提交仲裁解決。特別是有關的司法協助協定，一般都將各締約國之間的商務仲裁裁決的承認和執行問題作為一項主要內容作了明確的規定。例如，1979年7月7日簽訂的《中華人民共和國和美利堅合眾國貿易關係協定》第8條有對承認和執行有關商務仲裁裁決的問題作出這樣的規定：“締約雙方對兩國的商號、公司和貿易組織間簽訂的合同所引起的或與其有關的任何爭議，鼓勵其通過友好協商、調解或其他雙方均可接受的方式，迅速公平解決。如果此類爭議按上述方式之一不能迅速解決，爭議雙方可以根據合同規定的條款或仲裁協議，提請仲裁解決。此類仲裁可以由中華人民共和國、美利堅合眾國或第三國的仲裁機構進行。仲裁採

用各該仲裁機構的仲裁程式規則，也可以在爭議雙方和仲裁機構同意的情况下，採用聯合國推薦的聯合國國際貿易法委員會仲裁規則，或其他國際仲裁規則。締約雙方應設法保證由被申請執行仲裁裁決的國家的主管當局，根據適用的法律和規章，承認並執行仲裁裁決”。<sup>16</sup>

**有關商務仲裁的司法解** 中國有關商務仲裁的司法解釋，主要有最高人民法院在執行有關商務仲裁的國內立法和國際條約的過程中，為保證這些法律規範的準確、切實的實施，所作出的有關規定或解釋。主要內容包括：

- (1) 《關於執行中國加入的〈承認及執行外國仲裁裁決公約〉的通知》：該通知由最高人民法院於1987年4月10日發佈實施，共有5條，主要就公約在我國的執行問題作了較具體和明確的規定。
- (2) 《關於適用〈中華人民共和國民事訴訟法〉若干問題的意見》：該意見由最高人民法院審判委員會第528次會議討論通過，並於1992年7月14日印發，主要就《民事訴訟法》中的有關規定，包括對有關商事仲裁的法律規範作了更加具體的規定。
- (3) 最高人民法院關於實施《中華人民共和國仲裁法》的司法解釋：在《中華人民共和國仲裁法》頒佈實施後，最高人民法院為保證該法能準確實施，發佈了一系列的司法解釋，其中較為重要的內容包括：
  - (i) 1996年12月12日以法函【1996】176號發佈的《關於同時選擇兩個仲裁機構的仲裁條款效力問題的函》。<sup>17</sup>
  - (ii) 1997年3月26日發佈的《關於實施〈中華人民共和國仲裁法〉幾個問題的通知》。<sup>18</sup>
  - (iii) 1998年4月23日以法【1998】第40號發佈的《關於撤銷涉外仲裁裁決有關事項的通知》。<sup>19</sup>
  - (iv) 1998年11月5日發佈施行的《關於確認仲裁協議效力幾個問題的批復》。<sup>20</sup>
  - (v) 1999年6月26日以法釋【1999】16號發佈的《關於中國仲裁機構作出的仲裁裁決能否部分撤銷問題的批復》。<sup>21</sup>
  - (vi) 2001年1月24日以法釋【2000】3號發佈的《關於內地與香港特別行政區相互執行仲裁裁決的安排》（以下簡稱“《安排》”）。

## 四 香港的商務仲裁法的體系

香港現行的商事仲裁法體制，包括有關商事仲裁的各種判例、成文法規和在香港地區適用的有關商事仲裁的國際條約等3個部分。香港地區有關商事仲裁的判例法散見於香港司法審判機關長期的司法審判實踐中，目前在香港地區適用的國際條約，最主要還是基於英國的參加，而於1977年1月開始在香港延伸適用的1958年《紐約公約》。<sup>22</sup>此外，經《仲裁

條例》所援引，《示範法》作為《仲裁條例》的一部分在香港地區直接適用。而有關商事仲裁的成文法規，則主要也是香港現行的《仲裁條例》。<sup>23</sup>

## 五 商務仲裁法的國際立法

目前影響國際社會較大的幾個國際條約和國際法律檔包括：

- (1) 《紐約公約》；
- (2) 《解決國家與他國國民間投資爭議的公約》；
- (3) 《示範法》；
- (4) 《關於國際商事仲裁的歐洲公約》；
- (5) 《美洲國家間關於國際商事仲裁的公約》。

## 六 商務仲裁司法監督的必然性

商務仲裁的司法監督，是指一國法院依據其國內法律或有關國際公約的規定，對商事仲裁程式中有關商事仲裁協議、商事仲裁庭的組成、商事仲裁的審理和裁決程式，以及商事仲裁裁決的執行等事項進行審查，以決定是否給與支持和協助的行為<sup>24</sup>。對仲裁實施監督，特別是法院對仲裁予以適當的干預，是世界各國仲裁立法的慣常做法。因為商務仲裁畢竟與商務訴訟不同，是由商務仲裁機構這樣一個民間性的組織機構來主持進行的；而採用的仲裁程式是沒有商務訴訟有那樣嚴格的法律管制；亦比法院及法官在訴訟程式的進行過程中享有更大的自主權；另外，由於各種社會現實因素的影響，仲裁員在仲裁案件要受到主、客觀條件的限制，不能排除出現錯案的可能；再加上仲裁一般是採用一裁終審制，並沒有設置更加合適及有效的監督機制，所以在仲裁制度中實施司法監督及建立司法監督制度就有必要性。

如果司法監督能在仲裁制度中謹慎實施，有利於保護當事人的合法權益，減少仲裁工作中的失誤。因為法院對仲裁的監督方式，主要表現在兩個方面，一是不予執行，一是撤銷裁決，所以約果不予執行及撤銷裁決的監督程式能適當實施，能夠使到仲裁制度更加完善；其次，有利於督促仲裁員公正仲裁案件，監督仲裁機構依法行使職權；另外，尊重當事人意願的原則，是仲裁制度中一個重要基本原則之一，是仲裁制度賴以建立的基礎。當事人一旦選擇以仲裁的方式解決爭議，法院就應當支持並保證其落實。所以，在無損該原則的情形下實施司法監督，是有助當事人利用仲裁制度解決爭議的信心；最後，由於仲裁實行一裁終局的制度，裁決作出後，當事人就同一糾紛再申請仲裁或向法院起訴的，仲裁委員會或法院不予受理。裁決書自作出之日起發生法律效力，當事人不履的，另一方可以依照有關規定向法院申請執行。有司法監督權的法院才能保證仲裁裁決得到執行。

但是，如果法院對廣泛的干預與監督權如不慎用，仲裁裁決被撤銷及不予執行的情形難以控制，這將會在很大程度上影



響仲裁機構對仲裁案件管轄權的獨立行使和人們對仲裁終局性的信賴；另外，增設司法監督制度的立法理由，主要是為了加強對仲裁一裁終局權力的監督，防止仲裁權的濫用。但它反映出與仲裁終局性原則的矛盾。從理論上看，仲裁包括兩方面的因素：合同因素與司法因素。仲裁實質上是解決爭議的一種合同制度。當事人同意把他們之間的爭議或將來可能發生的爭議提交給作為私人裁判官的仲裁員或作為私人裁判庭的仲裁庭解決。作為一項合同安排，仲裁應當受當事人意思自治原則的支配。從這一原則出發，只要仲裁程式符合當事人的約定，當事人一般就應準備接受仲裁員在法律或事實方面的錯誤裁決。法官畢竟也可能犯錯誤。法院的上訴制度就是建立在法官可能犯錯誤的假定之上，其目的就在於上級法院的法官糾正下級法院法官的錯誤。然而，糾正司法錯誤的程式緩慢且耗資巨大。仲裁的優點在於可避免這種司法程式的拖延和損耗。但司法監督的設立，仲裁終局性的原則都受到不同程度的影響；最後，如果法院對商務仲裁採取較寬鬆的態度進行監督，亦會帶給敗訴方以“冠冕堂皇”的理由拒絕履行仲裁裁決書的內容，並要求法院介入，拖延仲裁裁決書的執行。換句話說，司法監督，一方面可以有效地糾正仲裁裁決的錯誤，以實現社會公正；另一方面，亦帶來順利執行仲裁裁決的障礙。

## 七 中國對國際商務仲裁的司法監督

**啟動司法監督的主體及條件** 根據《仲裁法》第58、70、71條及《訴訟法》第217、260條所作的規定表明，不論是國內商務仲裁或國際商務仲裁當事人和法院都可以啟動有關商務仲裁裁決的司法監督程式，只是啟動的條件不同。

而根據《仲裁法》第70、71條及《訴訟法》第260條第1款規定，在涉外仲裁裁決，當事人允許啟動司法監督程式的要件包括：(1)當事人在合同中沒有訂有仲裁條款或者事後沒有達成書面仲裁協議的；(2)被申請人沒有得到指定仲裁員或者進行仲裁程式的通知，或者由於其他不屬於被申請人負責的原因未能陳述意見的；(3)仲裁庭的組成或者仲裁的程式與仲裁規則不符的；或(4)裁決的事項不屬於仲裁協議的範圍或者仲裁機構無權仲裁的。只要當事人提出證據證明仲裁裁決符合其中一個要件，經人民法院組成合議庭審查核實，便能裁定撤銷或不予執行。而在法院主動啟動司法監督程式的情況下，主要是審查有關國際商務仲裁裁決是否違背社會公共利益。

比較《仲裁法》第58、63條及《訴訟法》第217條第2款規定，中國對涉外商務仲裁的政策有別於國內商務仲裁的政策。在對國內商務仲裁進行監督，不但包括對程式性事項的審查，而且對實體問題亦進行審查。<sup>25</sup>而在對國際商務仲裁進行監督時，則採取較寬鬆的標準，即法院只作程式性審查，而不作實體問題審查。

**啟動司法監督的期限** 在申請撤銷仲裁裁決方面，《仲裁法》第59條規定：“當事人申請撤銷裁決的，應當自收到裁

決書之日起六個月內提出。”而在申請執行仲裁裁決方面，《訴訟法》第219條第1款規定：“申請執行的期限，雙方或者一方當事人是公民的為一年，雙方是法人或者其他組織的為六個月。”<sup>26</sup>

在撤銷仲裁裁決方面，法院根據《仲裁法》第60條規定，在受理撤銷裁決申請之日起兩個月內作出撤銷裁決或者駁回申請的裁定。另外，最高人民法院於1998年4月23日發佈了《最高人民法院關於人民法院撤銷涉外仲裁裁決有關事項的通知》。該通知第2條作了如下的規定：“受理申請撤銷裁決的人民法院如認為應予撤銷裁決或通知仲裁庭重新仲裁的，應在受理申請後30日內報其所屬的高級人民法院，該高級人民法院如同意撤銷裁決或通知仲裁庭重新仲裁的，應在15日內報最高人民法院，以嚴格執行仲裁法第60條的規定。”<sup>27</sup>這個“預先報告制度”是為了保障訴訟和仲裁活動能嚴格依法進行、加強對撤銷涉外仲裁裁決的內部監督及防止濫用撤銷制度，最大限度地維護當事人的真實仲裁意願。另外，因為這種提高審級的做法亦可以防止地方保護主義嚴重氾濫的地方法院濫用監督權，破壞仲裁的終局性，亦同樣可以維護仲裁的權威。換句話說，這個預先報告制度最後由最高法院的把關有利於尊重仲裁裁決。但是，這個“金字塔式”的司法監督體系其弊端也是明顯的。如果撤銷涉外仲裁裁決，須經中級人民法院、高級人民法院和最高人民法院三級法院同意，並且撤銷權高度集中在最高人民法院，這實際上建立了以最高人民法院有最終決定權的司法監督體系，在國際上是少見的。另外，這個報告制度事實上是讓三級法院共同合審一個案件，其手續繁瑣，時間冗長，可能帶來司法低效，同時對申請人也是欠公平的。因此，作為一項非常措施，它應隨著中國各級法院審判水平的提高，在適當時機重新檢討並進行修改結束它的歷史使命。

**啟動司法監督的法律後果** 對國際商務仲裁裁決進行司法監督時，《訴訟法》第二百六十九條規定：“國外仲裁機構的裁決，需要中華人民共和國人民法院承認和執行的，應當由當事人直接向被執行人住所地或者其財產所在地的中級人民法院申請，人民法院應當依照中華人民共和國締結或者參加的國際條約，或者按照互惠原則辦理。”換句話說，如果對方國家與中國同樣有參與國際公約或參加雙邊條約或者存在互惠協定或關係，則按有關公約、雙邊條約或互惠原則處理。但如果對方國家與中國並無任何公約約束、多邊或雙邊條約關係，又不存在互惠安排，則中國法院不存在承認和執行對方國家所作的仲裁裁決的義務。一般可以按國家內地法律的基本原則或者國家主權和社會公共利益去考慮是否承認和執行的問題<sup>28</sup>。但無論在什麼基礎下去審查有關外國商務仲裁裁決是否承認和執行的問題，最終的法律後果亦只是承認和執行有關的裁決或拒絕承認和執行有關的裁決。而不存在撤銷有關外國仲裁裁決的問題。因為從國際商事仲裁的理論與實踐來看，只有裁決作出國家的法院才有權撤銷該項裁決，而作為被請求承認和執行地國家的法院，並不能以撤銷方式來否定外國仲裁裁決的法律效力，也就不能有撤銷外國商事仲裁裁決的司法監督後果。<sup>29</sup>

## 八 香港對國際商務仲裁的司法監督

**啟動司法監督的主體及條件** 香港的國際商務仲裁的法律基礎主要由《仲裁條例》第I、IA及IIA部分、《示範法》第1章至第7章<sup>30</sup>、《紐約公約》及《高等法院規則》第73號命令組成。而根據《示範法》第34條及《仲裁條例》第44條的規定表明，當事人和法院都可以啟動有關國際商務仲裁裁決的司法監督程式，只是啟動的條件不同。

比較《示範法》第34條及《仲裁條例》第44條，基本上裁定不予執行的理由與《紐約公約》第5條所列的理由相同<sup>31</sup>。當事人允許啟動司法監督程式的要件包括：(1) 仲裁協議的當事人缺乏行為能力或仲裁協議無效；(2) 違背正當程式，被申請執行的一方當事人未接到關於指定仲裁員或仲裁程式的適當通知，或由於其他原因未能有申辯機會；(3) 裁決的事項超出仲裁協議所規定的範圍；(4) 仲裁庭的組成或仲裁程式不符合當事人約定或未作約定時違背仲裁地法律；或(5) 無效裁決：裁決尚未產生約束力或已被作出國主管機關撤銷或中止。而在法院主動啟動司法監督程式的情況下，主要是審查：(1) 爭議事項是否依該國法律為可仲裁事項；(2) 承認和執行該裁決是否將違背該國的公共政策。

**啟動司法監督的期限** 根據《示範法》第34(3)條，申請撤銷國際仲裁裁決的一方必須向負責“建築和仲裁訴訟案審訊表”的法官提交原訴傳票。申請必須在申請人收到裁決後3個月內提出。如果根據《示範法》第33條提出了更正或解釋裁決的請求，則須在仲裁庭處理完該請求之日後3個月內提出。

在質疑本地仲裁裁決時，《仲裁條例》賦予香港法院更大的權力。但質疑本地仲裁裁決和撤銷國際仲裁裁決的時限不同，是自裁決作出（而不是收到）後起算。《高等法院規則》第73號命令第5條規定了21天的期限。

另外，有關予以承認和執行仲裁裁決的期限問題，並沒有在《仲裁條例》中規定。但根據《時效條例》（香港法律第347章）（以下簡稱“時效條例”）第34(1)條的規定，該條例及任何其他有關訴訟時效的條例或英國成文法則，均適用於仲裁，一如適用於高等法院的訴訟。因此，根據《時效條例》第4(1)(c)條的規定，強制執行某項裁決的訴訟時（如有關的原受仲裁協議並非藉經蓋印的文書作出者），於訴訟因由產生的日期起計滿6年後，不得提出。而根據《時效條例》第4(3)和4(4)條的規定，基於蓋印文據的訴訟，不得於訴訟因由產生的日期起計滿12年後提出<sup>32</sup>及基於任何判決的訴訟，不得於該判決成為可予強制執行的日期起計滿12年後提出；而就任何判定債項的欠繳利息，則不得於利息到期應繳的日期起計滿6年後追討。

**啟動司法監督的法律後果** 如前所述<sup>33</sup>，無論在什麼基礎下去審查有關外國商務仲裁裁決是否承認和執行的問題，最終的法律後果亦只是承認和執行有關的裁決或拒絕承認和執行有關的裁決。而不存在撤銷有關外國仲裁裁決的問題。

## 九 中國與香港的司法監督的規定和制度的同異

中國的《仲裁法》賦予仲裁裁決一裁終局的效力。同時，《仲裁法》第58、70、71條規定了法院對仲裁的司法監督權，具備有關規定情形之一的，有司法權的法院可依當事人的申請撤銷仲裁裁決或裁定不予執行。此外，人民法院對仲裁的司法監督還體現在《訴訟法》的有關規定之中，《訴訟法》第217條和260條分別規定了人民法院不予執行中國國內仲裁裁決和涉外仲裁裁決的情形。從上述有關中國司法監督的啟動主體及條件的討論，對中國國內仲裁裁決的司法監督既包括程式上的審查，又包括對認定事實和適用法律是否正確的實體方面的審查，而對涉外仲裁的司法監督則僅限於程式方面的審查。這與香港的做法是一致的，也是符合國際上的一般性做法。

在香港，國際商務仲裁裁決是終局的，對雙方當事人有拘束力。在香港域內的國際商務仲裁中，當事人對仲裁裁決可以提起上訴。法院在決定該等上訴時，可以發出以下命令<sup>34</sup>：(1) 維持、更改該裁決或者將該裁決作廢。經過更改的裁決應視為是仲裁員或公斷人作出的裁決<sup>35</sup>；(2) 將裁決連同法院對上訴主題的法律問題的意見，一併發還給仲裁員或公斷人重新考慮。除非得到香港高等法院或最高法院上訴庭的允許<sup>36</sup>，任何仲裁當事人的上訴只能向高等法院提出。對高等法院的決定，當事人不得再向上訴庭提出上訴<sup>37</sup>。但是，雙方當事人可以訂立“權利免除”協議以排除法院的司法干預<sup>38</sup>。簽訂有權利免除協議的仲裁，法院不得批予上訴許可。在香港，雙方當事人訂立權利免除協定的內容範圍是不受限制的。權利免除協定可以明確針對某些具體裁決、根據協定提交仲裁所作出的裁決或任何其他裁決，無論這些裁決是不是在同一次仲裁中作出<sup>39</sup>。不過，《仲裁條例》又規定，如果權利免除協議的各方當事人其後又達成其他書面協定，藉以撤銷較早前訂立的權利免除協定，該權利免除協定便不再有效，直到各方當事人再次訂立權利免除協議為止<sup>40</sup>。這種權利免除的制度在《仲裁法》及《訴訟法》中並沒有類似的規定。仲裁的終局性是一個非常重要的問題，如何保證這一特性是各國和地方司法監督的一個關鍵問題。應當說香港的免除協議更多地在保障當時合同自治的同時，也更多地保障了仲裁的終局性。比大陸的要更符合商業活動的規律。這方面可以點透。另外，如果中國內地和香港公司的合同中有免除協議，中國內地的仲裁機關在考慮有關協定是否有效及採用時，應當從仲裁的終局性及合同自由原則的角度來看，仲裁機關應當尊重當事人的意願，約當事人遵循公平原則確定各方的權利、義務和權利免除的內容，法院及仲裁機關亦應依據合同所確定當事人所享有的權利作出判決或裁決。換句話說，約果合同所訂立的內容並沒有以欺詐、脅迫的手段或者乘人之危，使對方在違背真實意思的情況下；而該免除協議亦沒有違反法律、行政法規的強制性規定，當事人自願協議免除個人一些權利，仲裁機關自無強行干涉的必要，亦應依照訂立的免除協議執行有關合同。另一方面，依據《仲裁法》第五條的精神，當事人達成免除協定，一方向人民法院上訴的，人民法院不應受理。只有法院及仲裁機關貫徹執行，仲裁的終局性及合同自由原則的兩個重要基礎才能真正得到體現。



從上述比較及分析，可見中國與香港在仲裁制度及司法監督方面各有自己的特色<sup>41</sup>。

## 十 國際商務仲裁裁決的“承認”與“執行”的含義

國際商務仲裁裁決的承認與執行，是商務仲裁制度的核心問題之一。商務仲裁裁決的作出等同仲裁程式及仲裁庭的使命的終結。但這張裁決書所確定的當事人的權利及義務並未真正實現。直到當事人履行裁決書的內容才真正實現。但是由於各種原因，敗訴方不履行商務仲裁裁決的案件常有發生。在這種情況下，由於仲裁機構本身不具有強制執行該仲裁裁決的權力，且作出裁決後的仲裁庭亦不復存在，勝訴方只能提請有管轄權的法院承認和強制執行該商務仲裁裁決。由於各國國內法及各國內部不同法域之間對於商務仲裁裁決的承認和執行的規定不一，當一項商務仲裁裁決需要在其他國家或法域承認和執行時，就需要依據有關的國際公約或通過國際及區際間的司法協助才得以實現。

商務仲裁裁決的承認與執行是既有區別又有聯繫的兩個法律概念。一方面，商務仲裁裁決的承認與執行，是兩個不同的法律概念和司法行為。在某些情況下，在裁決已經作出，而仲裁一方當事人（一般為敗訴方）又就裁決中已裁定的爭議標的物向法院提起訴訟時，便會產生承認問題。商務仲裁裁決的承認是指有關國家的法院對仲裁機構所作出的具有約束力的裁決予以認可，並賦予其強制執行力的司法行為。而執行商務仲裁裁決是要求法院承認裁決效力的基礎上採取有關法律手段使裁決所確定的實體權利得以實現和完成。<sup>42</sup>如《示範法》對商務仲裁裁決的承認與執行的概念也有明確的區分，該《示範法》第35條第1款規定：“仲裁裁決不論在何國境內作出，均應承認具有約束力”。而在其後的第36條又提及“承認或強制執行”，表明裁決的約束力並不依賴於裁決的實際履行。從性質上看，商務仲裁裁決的承認與執行都是一個國家的司法機關行使司法職權的行為。從實際操作來看，承認是執行的前提，只有在獲得法院承認的基礎上，才能取得法律上的強制執行力，從而有可能進一步採取措施予以執行；而執行裁決是承認裁決的必然結果。<sup>43</sup>

## 十一 承認與執行國際商務仲裁裁決的條件

**國際商務仲裁裁決在中國內地的執行** 關於中國內地國際商務仲裁裁決<sup>44</sup>在中國內地申請承認和執行的法律體制基本由《仲裁法》第71條<sup>45</sup>、《訴訟法》第259條<sup>46</sup>、第260條和第3編“執行程式”中的有關規定及最高人民法院發佈的有關司法解釋構成。

根據《訴訟法》第260條第1款規定，對中國內地國際商務仲裁機構所作出的國際商務仲裁裁決，被申請人提出證據證明有關商務仲裁裁決有下列情形之一的，經人民法院組成合議庭審查核實，裁定不予執行：(1) 當事人在合同中沒有訂有仲裁條款或者事後沒有達成書面仲裁協議；(2) 被申請人沒有得到指定仲裁員或者進行仲裁程式的通知，或者由於其他不

屬於被申請人負責的原因未能陳述意見；(3) 仲裁庭的組成或者仲裁的程式與仲裁規則不符；或(4) 裁決的事項不屬於仲裁協議的範圍或者仲裁機構無權仲裁。此外，《訴訟法》第260條第2款規定，若果執行該裁決違背社會公共利益，人民法院可主動裁定不予執行的決定。

另一方面，關於承認和執行外國國際商務仲裁裁決的法律體制，主要由中國加入的《紐約公約》、最高人民法院發佈的《關於執行中我國加入的〈承認及執行外國商事仲裁裁判公約〉的通知》和《訴訟法》第269條的規定作為主要規範。

根據《訴訟法》第269條的規定：“國外仲裁機構的裁決，需要中華人民共和國人民法院承認和執行的，應當由當事人直接向被執行人住所地或者其財產所在地的中級人民法院申請，人民法院應當依照中華人民共和國締結或者參加的國際條約，或者按照互惠原則辦理。”換句話說，如果對方國家與中國同樣有參與國際公約或參加雙邊條約或存在互惠協定或關係，則按有關公約、雙邊條約或互惠原則處理，否則，中國法院不存在承認和執行對方國家所作的仲裁裁決的義務。<sup>47</sup>

另外，關於《紐約公約》締約國作出的仲裁裁決予以承認和執行的條件則在有關“國際商務仲裁裁決執行的國際司法協助”有詳細討論。

無論是關於中國內地國際商務仲裁裁決的承認和執行或是關於承認和執行外國國際商務仲裁裁決，申請人必須按照啟動司法監督的期限提出。基本上《訴訟法》第219條對期限的規定是適用於所述的兩種國際商務仲裁裁決。<sup>48</sup>

**國際商務仲裁裁決在香港的執行** 關於香港域內的國際商務仲裁的法律體制基本由《仲裁條例》第I、IA及IIA部分、《示範法》第1章至第7章及《高等法院規則》第73號命令組成<sup>49</sup>。而在香港域內的國際商務仲裁裁決的承認和執行則依據《仲裁條例》第IA部分第2GG條及《示範法》第34條為基礎。

根據《仲裁條例》第2GG條<sup>50</sup>，對於在香港或香港以外地方作出或發出的國際或本地仲裁裁決（或仲裁庭的指令），香港法院可許可直接執行並依裁決作出判決，不需要重新在香港訴訟。一旦法院許可，裁決可按執行香港法院判決的方式執行。法院根據2GG條作出的許可執行或拒絕執行的決定，當事人可向上訴法院上訴。而《高等法院規則》第73號命令第10條則規定了申請執行許可的程式。申請執行許可無需通知被執行人，除非有特殊理由，需要傳喚各方。由此可見，香港包括本地商務仲裁裁決與國際商務仲裁裁決在內的仲裁裁決，具有與法院判決相同的法律效力，在法院允許的條件下，可以用與法院判決相同的方式保證其執行；或者在法院同意的時候，將裁決的內容轉變為法院判決予以執行。但是，如果被執行人能舉證證明存在與《示範法》第34條規定的情形，香港法院可以拒絕執行香港的國際商務仲裁裁決。該條規定的情形包括：(1) 仲裁主體一方或雙方存有某

些資格缺陷；(2) 仲裁協議依據其准據法無效；(3) 被執行人未得到指定仲裁員或仲裁程式的適當通知，或由於其他原因未能陳述其案情；(4) 爭議超出仲裁協議所規定的範圍；(5) 仲裁庭的組成不當；或(6) 裁決尚未具有約束力或作出裁決的國家的法院或根據其法律作出裁決的國家的法院已將裁決撤銷或中止執行。此外，法院可以根據裁決執行地國家法律規定爭議事項不具有可仲裁性和裁決的執行將違背該國的公共政策，而拒絕承認和執行。

另外，關於承認和執行外國國際商務仲裁裁決，即在中國和香港其他地區之外作出的裁決，可根據《仲裁條例》第2GG(2)條或《紐約公約》在香港執行。

依據《仲裁條例》第42(1)條規定，公約裁決可根據第2GG條規定的方式執行。如上所述，《仲裁條例》2GG條規定，經法院許可，仲裁裁決可直接執行，如同法院判決。因此，依據《仲裁條例》第42(1)條和2GG條，不需要通過提請普通法訴訟，香港法院有權許可直接執行公約裁決。《仲裁條例》不要求申請執行一方必須向對方提出書面支付請求。申請執行許可，通常不需通知被執行人參加，申請人提出申請後，法院即可許可。事後如被執行人有異議，再由其申請撤銷許可。被執行人必須證明，至少存在一種公約規定的可以拒絕執行的情況<sup>51</sup>。《仲裁條例》第44條規定了可以拒絕執行的全部理由<sup>52</sup>，包括：(1) 仲裁協議的一方缺乏某方面的行為能力；(2) 根據仲裁協定的准據法，仲裁協議無效；(3) 被申請執行的一方當事人未獲得有關於指定仲裁員或仲裁程式的適當通知，或未能因其他理由陳述案情；(4) 裁決所處理的爭議，並非交付仲裁的標的或不在其條款之列，或裁決載有關於交付仲裁範圍以外事項的決定；(5) 仲裁庭的組成或仲裁程式，與仲裁各方的協議不符，或如仲裁各方無協議，與仲裁地法律不符；或(6) 裁決對仲裁各方尚未產生約束力，或已被裁決作出地國家或根據其法律作出裁決的國家有管轄權的當局撤銷或停止執行；(7) 根據香港法律，裁決的事項不能通過仲裁解決；或(8) 承認和執行該裁決與香港的公共政策相抵觸。

另外，根據《仲裁條例》第44條，是否執行公約裁決，香港法院享有自由裁量權。而自由裁量權的使用原則，終審法院在Hebei Import & Export Corp v Polytek Engineering Co Ltd [1999] 1 HKLRD 665案中列出了幾項指導原則<sup>53</sup>：(1) 終審法院明確說明，公約裁決，應首先視為是應該執行的。香港法院應尊重“終局和禮讓”原則，這一原則與《仲裁條例》和公約是一致的；(2) 一般而言，請求仲裁地法院撤銷裁決不成功，不妨礙隨後在香港抵制執行裁決；在請求撤銷裁決的程式中沒有提出“公共政策”理由，不妨礙隨後在香港抵制執行裁決時提出；(3) 只有當事人的權利受到嚴重損害時，才能拒絕執行；及(4) 《仲裁條例》第44條規定拒絕執行的理由，不能機械適用。

關於執行非公約成員國作出的裁決，可根據《仲裁條例》第2GG(2)條向法院申請按執行香港法院判決的方式執行。該條明確說明“儘管本條例另有規定，本條例適用於在香港或香港以外

地方作出或發出的裁決、命令及指示。”因此，根據《仲裁條例》第2GG(1)條直接執行裁決、命令及指示的程式，延伸適用於執行香港境外作出的裁決、命令及指示，不論是否《紐約公約》成員國。如同根據第2GG(1)條執行香港裁決，法院關心的主要是裁決的效力。被執行人可以申請撤銷執行裁決的許可，但只有符合《示範法》第34條規定的可撤銷國際裁決的情況大體類似時，香港法院才會拒絕執行外國裁決<sup>54</sup>。一旦法院根據第2GG(2)條許可執行，非公約裁決可按執行香港判決的方式執行，除非申請人單方面獲得的執行許可事後被撤銷。

**國際商務仲裁裁決在中國與香港之間的執行** 在1997年7月1日香港回歸祖國前，中國與香港的商務仲裁裁決的相互承認與執行是依據《紐約公約》的有關規定來進行，是一種很好的司法協助形式。但是，香港回歸後，原有的這套以《紐約公約》為核心的仲裁裁決的承認和執行機制遇到了繼續運作的障礙。主要是因為中國內地或香港所作出的商務仲裁裁決不再被視為是外國仲裁裁決了，而是屬於一個國家內部不同地區的裁決。所以，兩地法院不能再依照《紐約公約》的規定處理相互間的承認和執行事宜，同時又由於兩地之間法律制度的差異，不能按照處理各自境內商務仲裁裁決的方式予以處理。這樣，便產生了中國和香港的商務仲裁裁決在對方地域無法得到執行的“真空期”。1998年1月，香港初審法院在 Ng Fung Hong Ltd. v. ABC [1998] 1 HKC 213 案中認定中國國際經濟貿易仲裁委員會作出的裁決不能根據當時有效的《仲裁條例》第2GG條在香港執行，也不能作為《紐約公約》裁決依據第42(1)條在香港執行。法院駁回執行申請的理由主要為：(1) 香港回歸以後，內地作出的欲在香港申請執行的商務仲裁裁決不屬於《紐約公約》項下的商務仲裁裁決，不能依該公約得到承認和執行；(2) 上述裁決書也不能按照《仲裁條例》的規定通過將裁決書轉化為簡易判決書的方式加以執行，因為這種方式僅適用於在香港本地進行的仲裁。該判決書同時指出，在中國內地執行香港作出的商務仲裁裁決也會有困難。由於這個案件引起很大的震動，為解決上述案件的問題，1999年6月21日，最高人民法院和香港代表正式簽署《關於內地與香港特別行政區相互執行仲裁裁決的安排》(以下簡“《安排》”)，《安排》對兩地法院如何受理和執行仲裁裁決的具體事項，作了詳細的規定，容許超過100家俱備有關經驗的內地仲裁機構所作出的仲裁裁決在香港執行，其主要內容包括：

- (1) 香港法院同意執行內地仲裁機構(名單由國務院法制辦公室港澳辦公室提供)按《仲裁法》作出的仲裁裁決；內地法院同意執行在香港按《仲裁條例》作出的裁決。
- (2) 在內地與香港作出的仲裁裁決，一方當事人不履行的，另一方當事人可以向被申請人住所地或者財產所在地的有關法院申請執行。有關法院，在內地指被申請人住所地或者財產所在地的中級人民法院，在香港指高等法院。
- (3) 被申請人的住所地或者財產所在地，既在內地又在香港的，申請人不能同時分別向兩地有關法院提出申請。只



有一地法院執行不足以償還債務時，可就不足部分向另一地法院申請執行。兩地法院先後執行的總額，不得超過裁決數額。

- (4) 申請人向有關法院申請執行內地或者在香港作出的仲裁裁決的，應提交執行申請書、仲裁裁決和仲裁協議等文書。
- (5) 內地或者香港作出的仲裁裁決在被申請人接到通知後，提出證證明有下列情形之一的，經審查核實，有關法院可裁決不予執行：
  - (i) 仲裁協議當事人依對其適用的法律屬於某種無行為能力的情形；或者該項仲裁協議依約定的准據法無效；或者未指明以何種法律為準時，依仲裁裁決地的法律是無效的；
  - (ii) 被通知人未接到指派仲裁員的適當的通知，或者因他故未能陳述意見的；
  - (iii) 裁決所處理的爭議不是交付仲裁的標的或者不在仲裁協議條款之內，或者裁決載有關於仲裁範圍以外事項的決定的（但交付仲裁事項的決定可與未交付仲裁的事項劃分時，裁決中關於交付仲裁事項的決定部分應當予以執行）；
  - (iv) 仲裁庭的組成或者仲裁程式與當事人之間的協定不符，或者在有關當事人沒有這種協定時與仲裁地的法律不符的；
  - (v) 裁決對當事人尚無約束力，或者已經仲裁地的法院或者按仲裁地的法律撤銷或者停止執行的。

此外，如有關法院認定依據執行法律，爭議事項不能以仲裁裁決解決的，則可不予執行該裁決；如內地法院決定在內地執行該裁決違反內地社會公共利益，或者香港法院決定在香港執行該仲裁裁決違反香港的公共政策，也可不予執行該裁決。

- (6) 1997年7月1日以後申請執行內地或香港作出的仲裁裁決按照《安排》執行。1997年7月1日至《安排》生效之日因故未能向本地法院申請執行的，如申請人為法人或者其他組織的，可以在本安排生效後6個月內提出；如申請人為自然人，可以在1年內提出。對於香港或者內地法院在1997年7月1日至《安排》生效之日拒絕受理或者拒絕執行仲裁裁決的案件，應當允許當事人重新申請。

## 十二 國際商務仲裁裁決執行的國際司法協助

一般情況下，一國法院承認和執行其本國商務仲裁裁決不會發生困難，因為世界各國的商務仲裁立法都承認商務仲裁裁決的法律效力。與執行本國商務仲裁裁決相比，外國商務仲裁裁決的強制執行較為複雜。在承認和執行外國商務仲裁裁決方面，通常做法是以對等互惠為原則，或按照兩國之間簽

訂的或共同參加的國際條約為條件。在調整強制執行外國商務仲裁裁決的有關公約中，《紐約公約》是最主要的一個國際公約，亦是承認和執行外國商務仲裁裁決的國際司法協助的主要法律基礎。

**《紐約公約》的基本框架** 《紐約公約》第1條第1款規定的可被締約國法院承認和執行的外國商務仲裁裁決包括：(1)由於自然人或法人之間的爭議而引起的商事仲裁裁決；及(2)在非執行地國家領土上作出的或執行國不認為是本國裁決的商事仲裁裁決。該條文明確限定了可以依據該公約規定申請強制執行的仲裁裁決的範圍。此外，《紐約公約》第1條第3款還提出2個保留條款：“互惠保留”條款和“商事”保留條款。“互惠保留”條款允許各締約國在加入公約時聲明，在承認和執行外國商務仲裁裁決時，須以互惠為條件，即只承認和執行締約國所作出的裁決，對非締約國領土內所作出的裁決，將不按該公約的規定辦理。而“商事”保留則允許一國聲明只對根據本國法律屬於商事關係，不論是否為契約關係，所引起的爭議所作出的仲裁裁決適用公約。另外，《紐約公約》第3條規定：“各締約國應承認商事仲裁裁決具有拘束力，並依援引裁決地的程式規則及下列各條所載條件執行。承認和執行適用本公約的商事仲裁裁決時，不得較承認和執行本商事仲裁裁決附加更苛刻的條件或徵收更多的費用。”這一規定表明，執行外國商務仲裁裁決的程式規則應依援引裁決地國的法律，而締約國亦負有義務依據其內國程式規則強制執行該公約所規定的商務仲裁裁決。

**《紐約公約》予以拒絕承認與執行國際商務仲裁裁決的理由**《紐約公約》第5條詳細規定了在何種情形下可拒絕承認與執行仲裁裁決：

- (1) 仲裁協議的當事人缺乏行為能力或仲裁協議無效；
- (2) 違背正當程式，被申請執行的一方當事人未接到關於指定仲裁員或仲裁程式的適當通知，或由於其他原因未能有申辯機會；
- (3) 裁決的事項超出仲裁協議所規定的範圍；
- (4) 仲裁庭的組成或仲裁程式不符合當事人約定或未作約定時違背仲裁地法律；或
- (5) 無效裁決：裁決尚未產生約束力或已被作出國主管機關撤銷或中止。

除上述5條理由外，裁決執行國法院還可依職權主動審查：

- (1) 爭議事項是否依該國法律為可仲裁事項；
- (2) 承認和執行該裁決是否將違背該國的公共政策。

如經審查，不符合可仲裁性和公共政策的要求，則可拒絕承認和執行。

另外，《紐約公約》第5條列舉的拒絕承認和執行的理由是窮

盡性的，不存在其他可援引作為拒絕執行的情形，而且公約規定中不審查仲裁裁決的實體方面的事項，包括事實不清、認定事實有誤或者適用法律不當等問題。同時不予承認與執行仲裁裁決的舉證責任主要由被申請執行的當事人承擔。

### 十三 結語

過去由於中國與各國的國際商務迅速發展，所以國際商務的紛爭亦隨之而增加。為了快速、有效與實際地解決有關的國際商務糾紛，仲裁是當今世界各國廣泛承認的一種替代訴訟方式以解決商務爭議的方法。國際商務仲裁制度的基本特性，其中包括涉外性、自治性、權威性和專業性、保密性、准司法性、裁決的終局性、管轄權的穩定性及裁決書的可執行性。由於這些特性，爭端雙方當事人不但可減省龐大的訴訟費用及時間，而且亦能避免於外國法院進行訴訟的困擾及減低要求外國法院承認和執行有關裁決的困難。

關於中國和香港的國際商務仲裁制度及有關仲裁裁決的承認和執行，基本上是在不同的法律制度下運作及進行。綜合前面所述，在國際商務仲裁裁決的承認和執行問題上，我們可以得出以下幾個初步結論：

**第一** 從法律體系來看，中國和香港是採用不同的法律方式運作。除各自制定不同的仲裁法及相關的成文法規或執行有關國際商務仲裁的國際條約外，中國在運作方面利用最高人民法院在執行有關商務仲裁的國內立法和國際條約的過程中所作出的司法解釋來保證有關成文法及國際公約的切實實施，但香港則以有關仲裁的判例作為運作的另一部分。按實際的操作來看，前者的方式比較後者來得迅速及有效。

**第二** 在國際商務仲裁的司法監督問題上，中國與香港對國際商務仲裁裁決的執行等事項都有類似的監督制度。基本上，仲裁當事人和法院都可以啟動有關商務仲裁裁決的司法監督程式，只是當事人和法院所啟動的條件及允許的時效不同。

**第三** 有關啟動司法監督的條件方面，中國與香港對國際商務仲裁裁決的監督，只是審查程式性事項，而不作實體問題審查。總的來說，中國與香港對國際商務仲裁的政策，採取較寬鬆的標準，從而與有關的公約規定接軌。另外，值得提出的是：(1)根據《仲裁法》第16條和第18條的規定，仲裁必須有一個仲裁機構，否則仲裁協議無效<sup>55</sup>。換句話說，中國是不承認在中國內地的臨時仲裁機構及其作出的仲裁裁決。但依照《紐約公約》第1條第2款<sup>56</sup>、《仲裁條例》第2(1)條<sup>57</sup>和《示範法》第2(a)條<sup>58</sup>、第7(1)的規定，臨時仲裁的裁決是被承認的。中國作為《紐約公約》締約國承擔了承認和執行其他締約國作出的商務仲裁裁決的義務，而不論該商務仲裁裁決是由常設仲裁機構作出的還是由臨時仲裁機構所作出的都必須承認並給予執行，不能以中國內地的《仲裁法》中沒有對臨時仲裁的規定從而拒絕承認和執行該項仲裁裁決；(2)基本上“公共利益”或“公共政策”都是其中一個作為撤銷或不予執行仲裁裁決的重要理由之一。在國際商務仲裁

中，類似有關公共秩序保留原則是一國法院用來排除對外國仲裁裁決承認與執行的重要手段。由於對“公共利益”或“公共政策”的理解，各國缺乏統一的解釋，因此，實際上適用這類原則具有很大的彈性，更甚的是可以作為一國法院“冠冕堂皇”的拒絕不予承認和執行仲裁裁決的理由。隨著經濟一體化的增強，國際上應該嘗試對“公共利益”或“公共政策”類似的原則給與一個共同接受的解釋，使有關國際商務仲裁裁決的承認和執行更加明確；(3)在舉證問題上，除了爭議的不可仲裁性和裁決違反公共利益或公共秩序是由法院自行認定的兩種理由之外，其他都屬於由當事人舉證證明的理由，但法院對於有關理由的認定擁有最終決定權。

**第四** 關於啟動司法監督的時效方面，中國在撤銷國際仲裁裁決的申請採取較寬鬆的規定，當事人可以在收到裁決書之日起六個月內提出，但香港在這方面的規定，則要求申請人收到裁決後3個月內提出。而在申請執行仲裁裁決方面，中國有關規定，則非常嚴格，雙方或者一方當事人是公民的，申請必須在一年內提出；雙方是法人或者其他組織的有效時效為六個月。而香港對於執行仲裁裁決的時效，申請人可於訴訟因由產生的日期起計6年內提出，但基於蓋印文據的訴訟，則可於訴訟因由產生的日期起計12年內提出。

**第五** 關於中國與香港之間所簽的《安排》雖然是充分考慮了兩地法制的差異和實際的實踐問題，但實質內容仍以《紐約公約》的基本精神為基礎，只是在執行方式和性質上有些變化。因此，雙方的法院法官應繼續加強對《紐約公約》的瞭解、繼續密切注意國際商務仲裁的發展趨勢及繼續加強對仲裁裁決執行的審判監督力度保證有關裁決能根據有關法律規範切實實施。另外，總的來說，最高人民法院與香港高等法院簽署的這個《安排》，在一定程度上填補了香港回歸後形成的相互執行仲裁裁決的法律真空，為切實解決相互執行仲裁裁決的困難提供了法律基礎，無疑對促進雙方經貿往來，保護當事人合法權益，有深遠的意義。

最後，在承認和執行國際商務仲裁裁決的問題上，儘管中國與香港仍有不同，但由於中國與香港的特殊經濟關係，仲裁立法與有關實踐在逐漸地協調和統一。因此，有理由相信，隨著國際經濟全球化進程的加快和維護正常的國際商務交往秩序的需要，在進一步加強之間的合作與對話的基礎上，統一國際商務仲裁裁決的承認和執行制度，不僅是必要的，而且是可能的。

### 註腳 Endnotes

- 1 參見 Alan Redfern、Martin Hunter, *Law and Practice of International Commercial Arbitration*, Sweet & Maxwell 1999年第3版, 第1至2頁; 李增輝著:《紐約公約特點及其法律框架》, 出處 [http://www.law-lib.com/lw/lw\\_view.asp?no=2250](http://www.law-lib.com/lw/lw_view.asp?no=2250)。
- 2 參見謝石鬆著:《商事仲裁法學》, 高等教育出版社2003年版, 第1頁。
- 3 通常亦稱之為涉外仲裁; 參見黃進、徐前權、宋連斌著:《仲裁法學》, 中國政法大學出版社1997年版, 第171頁。



- 4 參見黃進、徐前權、宋連斌著：《仲裁法學》，中國政法大學出版社1997年版，第169頁。
- 5 The International Chamber of Commerce，簡稱 ICC。
- 6 參見 Alan Redfern、Martin Hunter，Law and Practice of International Commercial Arbitration，Sweet & Maxwell 1999年第3版，第14頁；The International Solution to International Business Disputes - ICC Arbitration, ICC Publication No. 301 (1977)，第19頁。
- 7 該意見登於《中國法律年鑒》，1989年，第672至682頁。
- 8 該意見登於《中國法律年鑒》，1993年，第726頁。
- 9 參見黃進、徐前權、宋連斌著：《仲裁法學》，中國政法大學出版社1997年版，第171頁。
- 10 該意見登於《中國法律年鑒》，1988年，第548頁。
- 11 當事人簽訂的仲裁協議雖然排除了法院對爭議的管轄權，但在某些特定情況下法院擁有管轄權。例如，仲裁協議無效或失效。
- 12 參見 Alan Redfern、Martin Hunter，Law and Practice of International Commercial Arbitration，Sweet & Maxwell 1999年第3版，第9頁。
- 13 參見謝石鬆著：《商事仲裁法學》，高等教育出版社2003年版，第187頁。
- 14 該公約由第6屆全國人民代表大會常務委員會第18次會議，於1986年12月2日決定加入，自1987年4月22日開始對中國生效。中國在加入該公約時，提出了“互惠”和“商事”兩項保留。根據最高人民法院《關於執行中我國加入的〈承認及執行外國商事仲裁裁決公約〉的通知》的規定，所謂“契約性和非契約性商事法律關係”，具體是指由於合同、侵權或者根據有關法律規定而產生的經濟上的權利義務關係。
- 15 該公約由中國代表於1990年2月9日在華盛頓簽署，並由第7屆全國人民代表大會常務委員會第26次會議，於1992年7月1日決定批准。
- 16 參見中華人民共和國外交部編：《中華人民共和國條約集》第26集（1979），世界知識出版社1983年7月版。
- 17 該函主要規定當事人在其合同中同時選擇了2個仲裁機構的仲裁條款，對仲裁機構的約定是明確的，也是可以執行的；當事人只要選擇約定的仲裁機構之一即可進行仲裁；根據《中華人民共和國民事訴訟法》第111條第2項的規定，應由當事人提交仲裁解決，人民法院沒有管轄權。
- 18 該通知主要規定《中華人民共和國仲裁法》施行前當事人依法訂立的仲裁協議的法律效力；在仲裁過程中，當事人申請財產保全的，國內案件由被申請人住所地或者財產所在地的基層人民法院管轄，國際案件由被申請人住所地或者財產所在地的中級人民法院管轄。
- 19 該通知主要規定一方當事人申請撤銷中國國際商事仲裁裁決，受訴法院經審查認為該有關裁決具有《中華人民共和國民事訴訟法》第260條第1款規定的情形之一，在裁定撤銷裁決或通知仲裁庭重新仲裁之前，須報請本轄區所屬高級人民法院進行審查；如高級人民法院同意，應將其審查意見報最高人民法院，並待其答復後方可執行有關審查後的決定。
- 20 該批復主要規定在仲裁法實施後重新組建仲裁機構前，當事人達成的仲裁協議只約定了仲裁地點，未約定仲裁機構，雙方當事人不能就選定該地點新組建的仲裁機構達成補充協定的，仲裁協議無效；當事人對仲裁協議的效力有異議，一方當事人申請仲裁機構確認仲裁協議的效力，只要仲裁機構還沒有作出決定，另一方當事人請求人民法院確認仲裁協議的效力，人民法院都應當受理，同時通知仲裁機構終上仲裁。
- 21 該批復主要規定中國仲裁機構作出的仲裁裁決，如果裁決事項超出當事人仲裁協議約定的範圍，或者不屬當事人申請仲裁的事項，並且上述事項與仲裁機構作出裁決的事項是可分的，人民法院可以基於當事人的申請，在查清事實後裁定撤銷該超裁部分。
- 22 1997年6月6日和6月10日，中國政府和英國政府根據《中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府關於香港問題的聯合聲明》的有關規定分別致函聯合國秘書長，在1997年7月1日以後，該公約繼續適用於香港地區。
- 23 參見謝石鬆著：《商事仲裁法學》，高等教育出版社2003年版，第35頁。
- 24 參見謝石鬆著：《商事仲裁法學》，高等教育出版社2003年版，第293頁。
- 25 參見《訴訟法》第217條第2款中的第(4)、(5)項就屬於法院對實體問題進行審查。
- 26 關於仲裁協定及仲裁員監督程式的期限，當事人則根據《仲裁法》第20、35條有關規定啟動。
- 27 關於認定仲裁協議效力的期限，法院則根據《仲裁法》第26條有關規定享有監督權。而在指定仲裁員方面的期限，《仲裁法》則對法院能否指定仲裁員以及有關期間則未作明確規定。
- 28 參見張瀾劍所著的《國際私法學》，北京大學出版社2000年版，第570頁，中國內地的人民法院在不違反中國內地法律的基本原則或者國家主權、安全 and 社會公共利益的大前提下，通常會通過外交途徑去考慮是否承認和執行外國仲裁裁決的問題。
- 29 參見謝石鬆著：《商事仲裁法學》，高等教育出版社2003年版，第309頁。
- 30 《仲裁條例》第IIA部分第34C(1)條規定，國際商務仲裁適用《示範法》第1章至第7章。
- 31 參見第四章有關“國際商務仲裁裁決在香港的執行”及國際商務仲裁裁決執行的國際司法協“有較詳細的討論。
- 32 但這個基於蓋印文據的訴訟時效條文並不影響該條例其他條文已訂明較短時效期的訴訟。
- 33 參見第二部分有關“中國對國際商務仲裁的司法監督”的討論。
- 34 參見《仲裁條例》第23(2)及23(8)條規定。
- 35 英、美法系非常重視程式的公正性與公開性，即所謂的“Due Process”，對仲裁員或公斷人瀆職、程式不當或裁決是以不當方式完成的，法庭可撤銷仲裁裁決。
- 36 根據全國人大常委會《關於根據〈中華人民共和國香港特別行政區基本法〉第160條處理香港原有法律的決定》之附件三第5條規定，香港特別行政區成立後，任何“最高法院”及“高等法院”等名詞或詞句應相應地解釋為“最高法院”及“高等法院原訟法庭”。
- 37 參見《仲裁條例》第23(7)條規定。
- 38 參見《仲裁條例》第23B(1)條規定。
- 39 參見《仲裁條例》第23B(3)條規定。
- 40 參見《仲裁條例》第23B(2)條規定。
- 41 從實際執行角度來看，香港的仲裁制度中有許多地方值得中國借鑒，其中包括他們最大限度地尊重當事人仲裁意願這一點。香港為順應國際商務仲裁制度的國際化和統一化的趨勢，對其仲裁條例作過多次重大修改，以最充分地尊重當事人意思自治，尊重仲裁條款的合意性。在今天的香港《示範法》中，已是擺脫了仲裁協議的嚴格形式，可以說，只要有文字出現過“仲裁”一字，都會是有效的仲裁協定。中國仲裁法制應提高和強化對仲裁制度自治權的認識，尊重當事人的仲裁意願；放寬對仲裁協議的要求，例如：對選定仲裁委員會等過於嚴格的限制；規定有瑕疵的仲裁協議的完善途徑及仲裁機構的責任豁免等。
- 42 參見謝石鬆著：《商事仲裁法學》，高等教育出版社2003年版，第313頁。
- 43 參見謝石鬆著：《商事仲裁法學》，高等教育出版社2003年版，第313至314頁。
- 44 1997年3月26日，最高人民法院發佈了《關於實施〈中華人民共和國仲裁法〉幾個問題的通知》，其中第3條規定，對依照《仲裁法》成立的仲裁機構所作出的涉外商務仲裁裁決，當事人申請執行的，人民法庭應當依法受理。根據該通知，中國內地的國際商務仲裁裁決是界定為：中國內地商務仲裁機構所作出的含有國際因素的商務仲裁裁決。

- 45 該條並沒有直接規定在中國內地申請執行國際商務仲裁裁決的程式、條件等事項，而是援引了《訴訟法》第260條的規定。
- 46 該條規定了受理國際商務仲裁裁決執行申請的管轄法院。
- 47 參見有關“啟動司法監督的法律後果”的討論。
- 48 參見有關“啟動法監督的期限”的討論。
- 49 若是本地仲裁，則主要適用《仲裁條例》第I、IA及II部分和《高等法院規則》第73號命令；而《仲裁條例》中並沒有規定拒絕執行本地商務仲裁裁決的條件。
- 50 該條文規定：(1)由仲裁庭在仲裁程式中或就仲裁程式所作出或發出的裁決、命令或指示，可猶如具有相同效力的法院判決、命令或指示般以相同的方式強制執行，但只有在得到法院或法院法官的許可下方可如此強制執行。如法院或法官給予該許可，則可按該裁決、命令或指示而作出裁決；(2)儘管本條例另有規定，本條適用於在香港或香港以外地方作出或發出的裁決、命令及指示。
- 51 參見莫石、鄭若驊著：《香港仲裁實用指南》，法律出版社2003年版，第55頁。
- 52 除很小的修改外，與《紐約公約》第5條一樣；不予執行的理由不包括事實和法律上的錯誤，因為法院要做的是執行裁決，而不是重新審理案件。
- 53 參見莫石、鄭若驊著：《香港仲裁實用指南》，法律出版社2003年版，第56頁。
- 54 參見莫石、鄭若驊著：《香港仲裁實用指南》，法律出版社2003年版，第57頁。
- 55 《仲裁法》第16第2款：“仲裁協定應當具有下列內容：(一)請求仲裁的意思表示；(二)仲裁事項；(三)選定的仲裁委員會。”；第18條：“仲裁協議對仲裁委員會沒有約定或者約定不明確的，當事人可以補充協議；達不成補充協定的，仲裁協定無效。”
- 56 《紐約公約》第1條第2款：““仲裁裁決”一詞不僅指專案選派的仲裁員所作裁決，亦指當事人提請仲裁之常設仲裁機關所作裁決。”
- 57 《仲裁條例》第2(1)條：““仲裁協定”的涵義，與聯合國國際貿易法委員會示範法第7(1)條中該詞的涵義相同”；《示範法》第7(1)條：““仲裁協議”指當事各方同意將在他們之間確定的不論是契約性或非契約性的法律關係上已經發生或可能發生的一切或某些爭議提交仲裁的協議。仲裁協議可以採取合同中的仲裁條款形式或單獨的協議形式。”
- 58 《示範法》第2(a)條：“為了本法的目的：“仲裁”是指無論是否由常設仲裁機構進行的任何仲裁。”

- 11 黃亞英著：《論紐約公約與仲裁協議的形式》，載於《法學雜誌》2004年第2期。
- 12 杜煥芳著：《論國際商事仲裁裁決的撤銷程式、效力與救濟》，2003，出處 <http://www.china-arbitration.com/2.asp>。
- 13 羅楚湘著：《中國內地與香港仲裁制度之比較——兼論兩地相互承認與執行仲裁裁決的有關問題》，2003年7月25日，出處 <http://china-arbitration.com/3a1.asp?id=739&name=仲裁研究>。
- 14 羅永生著：《撤銷仲裁裁決申請書》，2002，出處 [http://article.chinalawinfo.com/article/user/article\\_display.asp?ArticleID=21656](http://article.chinalawinfo.com/article/user/article_display.asp?ArticleID=21656)。
- 15 胡哈著：《中國承認與執行外國法院判決的法律制度及實務研究》，2003，出處 [http://article.chinalawinfo.com/article/user/article\\_display.asp?ArticleID=23700](http://article.chinalawinfo.com/article/user/article_display.asp?ArticleID=23700)
- 16 董華春著：《論“一國兩制”中國內地與香港仲裁裁決的相互承認與執行》，2001，出處 [http://article.chinalawinfo.com/article/user/article\\_display.asp?ArticleID=21671](http://article.chinalawinfo.com/article/user/article_display.asp?ArticleID=21671)

## 二 外文參考文獻及資料：

- 1 Neil Kaplan、Jill Spruce、Michael J. Moser, Hong Kong and China Arbitration: Cases and Materials, Butterworths, 1994.
- 2 Alan Redfern、Martin Hunter, Law and Practice of International Commercial Arbitration, Sweet & Maxwell, 3rd edition, 1999.
- 3 Robert Morgan, The Arbitration Ordinance of Hong Kong: A Commentary, Butterworths, 1997.
- 4 Mark Lin, Enforcement of Mainland China's Arbitral Awards in the Hong Kong Special Administrative Region After 1 July 1997, Arbitration, The Journal of the Chartered Institute of Arbitrators, Volume 65 No.1, February 1999, pp.56-59.
- 5 Hebei Import & Export Corporation v. Polytek Engineering Co Ltd [1998] 1 HKC 192.
- 6 Ng Fung Hong v. ABC [1998] 1 HKLRD 155.

## 主要參考文獻 References

### 一 中文參考文獻及資料：

- 1 楊榮新主編：《仲裁法學案例教程》，知識產權出版社2003年5月版。
- 2 謝石鬆主編：《商事仲裁法學》，高等教育出版社 2003 年版。
- 3 黃進、徐前權、宋連斌編著：《仲裁法學》，中國政法大學出版社1997年版。
- 4 楊良宜著：《國際商務仲裁》，中國政法大學出版社 1997 年版。
- 5 莫石、鄭若驊編著：《香港仲裁實用指南》，法律出版社 2003 年版。
- 6 張斌生主編：《仲裁法新論》，廈門大學出版社 2003 年版。
- 7 劉樹樹著：《中國涉外仲裁裁決制度與學理研究》，法律出版社2001年第1版。
- 8 自宋航著：《國際商事仲裁裁決的承認與執行》，法律出版社2000年第1版。
- 9 黃亞英著：《中國仲裁裁決在外國的承認與執行-案例及問題研究》，發表於《中國仲裁》雜誌 2002 年第 6 期。
- 10 黃亞英著：《論紐約公約與外國仲裁裁決的承認與執行》，發表於《人民法院報》2003 年 10 月 17 日“學者論壇”。

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## 北京學習交流團 JO Beijing Study Tour



Jeffrey CH Wong  
MHKIS MRICS  
JO Committee Member

**2004** 年青年組有機會前往上海參加中國房地產估價師與房地產經紀人學會舉辦的論壇以及探訪不同的政府單位，得到很正面的迴響。青年組再接再勵，舉辦了在2005年10月26至30日展開的交流團。



這次行程的主題為【懷舊與創新的交替一龍的文化】。房地產成為中國首都北京熱手的題目，往往在國內的報章都提及某某樓盤成交價上升了多少多少或討論奧運場館的興建情況，國家用地及如何保護國家文物或古迹成為一時佳



話；因此青年組便圍繞著這些話題出發，本以為五天很漫長，結果整個行程都是排得密麻麻了。



### 2005年10月26日

一團共二十六人的青年組成員浩浩蕩蕩乘坐飛機前往北京。下榻京倫酒店。下午第一個拜訪單位是



奧林匹克運動會組織委員會的呂小泉綜合處處長；呂處長負責整個項目的建設或監督的事務：一共十一個新建場館，十一個改建場館及九個臨時場館，呂處長瞭如指掌，詳細地分析及講解。到最後，他還讚賞及預祝香港舉辦的馬術比賽項目成功。【同一個世界同一個夢想】亦是我們感謝呂處長的衷心說話。



完成講解後，駐北京 Northcroft 的 Jacob Lam 帶領我們前往實景參觀，整個鳥巢狀的國家體育場亦進入我們眼簾。可惜入黑的時間太早，未能盡享其餘場館的面貌。



### 2005年10月27日



由於交通情況，早上七時半我們便啟程出發拜會國家測繪局，該局劉小波人事司及中國測學會李根洪秘書長接見我們，講解國內的測繪學及分析現時執業的情況。之後我們更邀請了測繪資訊中心處長分享他們最近登上珠穆朗瑪峰量度峰頂高度的經驗。



之後我們緊接前往中國房地產估價師與房地產經紀人學會與



柴強副會長兼秘書長及張春明主任會見，聽他們講解執業資格制度及互認情況。他們更邀請了北京市分會郭秘書長為我們講解及北京現時房地產發展政策。

下午，我們前往北京市城市規劃設計研究院拜會朱嘉慶院長及宋家明主任，王亞鈞總體規劃所副所長，馮斐菲城市設計所副所長及桂琳城市設計所高級工程師為我們講解了現時北京城市總體規劃指導思想，原則及佈局，北京奧運規劃及北京舊城保護。



緊接我們前往國務院港澳事務辦公室拜會錢力軍司長及游遠主任，分享了他們的工作，錢司長亦解答了我們有關問題。

晚上，我們被RICS北京分會副會長 Jacob Lam 及其他會員邀請共進晚膳，分享工作經驗及當地會務。

### 2005年10月28日



我們準九時抵達國土資源部拜會國土資源部港澳臺辦公室，接見我們的除了李志堅主任，陳勇副主任，還有地

籍司高延利副司長，溫明炬處長以及資訊中心的蔣文彪副主任及吳其斌運行部副主任。他們講解了工作要點包括土地管理方法，國土資源的調查評價及信息系統的建設。



之後我們便前往中國建設監理協會拜會林之毅副秘書長及溫健培訓部



主任講解其協會運作，及後參觀北京建築工程學院直屬的全民所有制企業

北京建工京精大房工程建設監理公司的操作，由胡耀輝副總經理講理。

下午我們前往參觀開發商 SOHO 中國公司承建的尚都 SOHO，是繼 SOHO 現代城、建外 SOHO 之後推出的新寫字樓樓盤。

及後我們參觀了一個擁有接近九十萬呎的商場樓面，六十萬呎的寫字樓的項目 THE PLACE，此項目是由仲量聯行負責市場推廣。

### 2005年10月29及30日

經過三天的緊密行程，我們以半旅遊，半學術性的態度前往一些北京市內著名古



跡及旅遊地點包括長城，頤和園，天安門廣場，人民英雄紀念碑，紫禁城及故宮。



經過這次的遊歷，相信每一位學員對於我們的國家，我們的首都有更深層的瞭解，擴闊了每個學員的目光；也因為今次的交流團，加深了青年組的凝聚力，團體性的合群能力。相信明年的交流團必定辦得更好，更完善。



## Getting to know the council 理事專輯

Emily Ling  
Vincent Lim  
JO commtee member

### KK Chiu – chairman of the Board of Membership

#### *Ethics above all when you are faced with unclear rules.*

***The HKIS has a mutual agreement with RICS on the recognition of member's qualification, could you tell us the rationale RICS members have to pass an oral interview by HKIS?***

We have faced difficulties in granting mutual recognition with RICS since they reformed into 13 faculties. There is no direct equivalent to the profession, like overlapping on disciplines such as project management in BS and QS fields. RICS members are required to have at least 1 year of local working experience to be eligible for applying. Each division has its autonomy in determining whether an interview assessment is needed before granting membership. We had a meeting with RICS and they generally agreed to such an arrangement. On the other hand, HKIS members, as usual, do not need to have any examination or assessment to be RICS member. These are what we have been doing for our members in order to secure the standard of the Institute.



Another new move of the Board of Membership is to introduce ATC (Assessment of Technical Competence) for technical members. It aims at broadening our membership base as well as promoting a high standard of work in our industry.

***Multiple membership has been implemented by the Institute and it works well in the PFM Division, would P & D Division be the next one? Does BOM have any plan to assist P & D Division in this scheme?***

Multiple memberships have existed for around 2 years after the approval by the General Council. Recently, not all the PFM members came from the other divisions. There has been some PFM members who obtained their second membership in either BS or GP, etc. Apart from the Institute's constitution and by-laws, it also depends on the receiving division, P & D Division, but the general rule is to have at least 20 hours of CPD and 50% of the work is relevant to the receiving division.

***As an Executive Director of an international firm, could you share your management skills with us?***

First, it is important to set an objective, stick to that and work towards that. Then you must convey the idea and share the objective and expectation with colleagues, and never forget to build up team spirit. In an international firm, we have regional training and social functions to let employees understand each other and share experience and best practice.

***Do you have any message for our young members?***

You have to look north: the Mainland has a huge potential. You can see investment of major developers in Hong Kong compare how much they put in Hong Kong and the Mainland. The figure is tens and hundreds times more, which implies Hong Kong is only a tiny bit of the pie. We have to catch the opportunities and yet face the challenges that Greater China brings. As the market is dynamic, a once small and poor province could turn into a metropolitan city with billions of dollars pouring in. Nevertheless, our young surveyors should be cautious and maintain high ethics. In the emerging Chinese market, there are too many unclear rules and temptations. We have to bear in mind that professional ethics is our core value. The growth of a company or an institute is not only the concern of one generation, but generations after generations. I hope more members could join to contribute to the Institute and strive for a high professional standard.

***If you were a high school student, would you still choose General Practice Surveying as your career?***

Yes, I would. The nature of the work suits my personality well. I am born talkative, out-going and like to deal with people. Another thing is a GP travels a lot comparing with other divisions as our jobs or projects are beyond borders.

## Women in Surveying 測量半邊天



Kelvyn Ng  
JO Committee

### Viv Tang – private consultancy work is a sweetie

#### *What made you decided to pursue a career in General Practice surveying?*

My bachelor degree in surveying was obtained from the University of Hong Kong. I chose this undergraduate course as I wanted to pursue a career related to the property market which plays an important role in Hong Kong. Among various surveying fields, I was attracted by the diversity offered by general practice surveying. Apart from the wide range of services involved, meeting different people in the industry, like developers, land owners, tenants, solicitors and other professionals, also keep my life vibrant.

#### *How did you get started with your surveying career?*

Right after graduation, I joined Lands Department as an Estate Surveying Graduate. During the 2-year training period, I was posted to Yuen Long District Lands Office, Acquisition Section and Valuation Section. Upon completion of the training, I started working with Jones Lang LaSalle.

#### *What are your current responsibilities?*

As a member of the valuation department, my major duties are property valuation and conducting feasibility studies for sites. I am also involved in making various development applications on behalf of clients, including lease modification, waiver, planning applications so on and so forth. There are also opportunities to prepare expert reports for litigation cases.

#### *What are the differences between working in a public body and a private consultancy firm?*

Lands Department provided me with fundamental training to attain the professional qualification. Apart from allowing me to familiarize with the department's functions and operation, it also gave me valuable knowledge and unique working experience. Besides, it gave me a chance to understand more about the government's perspective on land policy. This is beneficial to my development in the private sector. Since I worked as a trainee in the Lands

Department, I was given full guidance from supervisors in handling cases. Sufficient time was usually given and the cases were straightforward in nature.

Whilst in a private consultancy firm, I work more independently and am encouraged to contribute ideas in performing tasks. Besides, I have to understand thoroughly the needs of various clients and tailor make services according to their requirements. Meeting tight schedules and handling different urgent cases at the same time is not unusual. However, I would consider it more challenging and enhanced my job satisfaction.



#### *What are the key attributes that you see as important in career?*

Strong market knowledge is important in every profession. In addition, good time management and communication skills are also essential.

#### *What do you do in your spare time?*

I am interested in hiking and traveling. Besides, I love making cakes and desserts for my family and friends.



## Members' Privilege *(With your HKIS membership card, you can enjoy these special offers.)*

### Cosmos Bookstore 天地圖書

15% discount on books and 10% on stationery purchases (except fix priced and special priced items) in the Cosmos Bookstore on 32 Johnston Road, Wanchai and 96 Nathan Road, Tsimshatsui till 31 December 2006. Inquiries please call **2866 1677**.

### Towngas Avenue

A free cheese cake worth HK\$120 upon spending of over HK\$500 at Towngas Avenue (merchandise, food and beverages but exclude gas appliances) until 30 June 2006. Inquiries, please call **2367 2710 or 2367 2713**.

\* (The HKIS will not be privy to any contracts between the HKIS members and the agency concerned. We will not be responsible for the administration of or the consequences arising from these contracts, including any personal data that the HKIS members may agree to provide to the agency.)

**Note :** No liability of any kind will be borne by the HKIS. All business transactions made under the membership benefits of HKIS are strictly between the merchant and HKIS members. The HKIS will not be involved in any complaints made by any party in any business transaction. All inquiries should be made to the merchant directly. For general information, please call the Secretariat on **2526 3679**.

### Caltex StarCard\*

A special discount of HK\$1 per litre for all successful application for the Caltex StarCard issued. For more details, please call Eric Law of Ming Xing Investment Co Ltd, on **2851 3297**.

### Shell Card\*

A special discount of HK\$1 per litre for all successful application for the Shell Card issued. For more details, please call Alex Au of Kingsway Concept Ltd, on **2541 1828**.

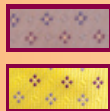
# HKIS

## Welcome to the HKIS Shop

HKIS Shop sells a range of attractive gifts bearing the HKIS logo. To view the range of goods or place an order, please call the Secretariat on 2526 3679 or visit [www.hkis.org.hk](http://www.hkis.org.hk)

#### Patten style

Blue, Gold



*Yellow and light blue silk tie, weave details with single HKIS embroidered logo.*

■ Member Price: HK\$90

Non-Member Price: HK\$150



*Dark blue lanyard with HKIS logo, key ring and mobile phone connecting thread.*

■ Member Price: HK\$20

Non-Member Price: HK\$25



*Beige silk scarf with single HKIS embroidered logo.*

■ Member Price: HK\$100

Non-Member Price: HK\$150



*HKIS square lapel pin with HKIS logo and is suitable for both gentlemen and ladies.*

■ Member Price: HK\$30

Non-Member Price: HK\$50



*A4 folder, crafted from fine leather and made to high standards, beautifully lined and embossed with the HKIS logo.*

■ Member Price: HK\$180

Non-Member Price: HK\$250



*Stylish yellow cap perfect for outdoor sun-screening, embroidered with HKIS logo.*

■ Member Price: HK\$30

Non-Member Price: HK\$50

Date	Event	Organiser	Location	
<b>2006</b>				
<b>July</b>	14	Quality Building Award 2006 – Award Presentation Banquet	HKIS	Hong Kong SAR
<b>October</b>	15 – 20	FIG XXIII Congress and XXIX General Assembly	FIG	Munich, Germany
<b>2007</b>				
<b>May</b>	12 – 17	FIG Working Week 2007 and XXX General Assembly	FIG/HKIS	Hong Kong SAR

For further details, please contact the HKIS office on 2526 3679 or visit [www.hkis.org.hk](http://www.hkis.org.hk)  
NB: SLC = Surveyors Learning Centre, 811 Jardine House, 1 Connaught Place, Central, Hong Kong

# Hiking@Sai Kung (a JO social event)

## Sunday 19 February 2006

**an easy trial of Maclehos Trail with nice beach and sea views  
recommended charge HK\$50 per head for insurance and travelling  
from Sai Kung 西貢 to Sai Wan 西灣亭**

- 9:30am meet up at Sai Kung (西貢) McDonalds (at Chan Man Street, Sai kung)  
Breakfast at McDonalds
- 10:15am take mini-bus or taxi to Sai Wan (西灣亭) (cost HK\$100 per taxi for 5 people)
- 10:45am warm up and start the trail
- Walk from Sai Wan (西灣亭) to Ham Tin (鹹田灣) (approx 1.5 hours)
- 12:30pm arrive Ham Tin Beach (鹹田灣沙灘)
- Take a 1.5 hour lunch break  
(you may have lunch at the two restaurants at Ham Tin (鹹田灣) or picnic on the beach)
- 2:00pm Start walk
- Walk from Ham Tin Beach (鹹田灣沙灘) to Chek Keng (赤徑) (approx 1.5 hours)
- Walk from Chek Keng (赤徑) to Pak Tam Au (北潭凹) (approx 1.0 hours)
- Arrive Pak Tam Au (北潭凹) at around 4:30pm
- End of the event and dismiss at Pak Tam Au (北潭凹)  
where buses go to Diamond Hill MTR and Sai Kung

**Please call Joseph Wong on 9191-3037**



## Going on adrenaline

# JO BASKETBALL CUP 2006

- Date** : 11, 12, 18, 19 & 26 March 2006
- Venue** : Fa Yuen Street Sports Centre
- Fee** : HK\$ 980.00 per participating team
- Places** : 8 teams (maximum 12 players per team)
- Awards** : Prizes will be awarded to the Champion, 1st runner-up, 2nd runner-up and Most Valuable Player (MVP).

Application forms and competition details are now available at HKIS office. Completed forms together with a cheque made payable to "SURVEYORS SERVICES LTD" should be returned to the HKIS office before the closing date of **28 February 2006**. Lots drawing will apply in case of over-subscription. For enquiry, please email: [cpd@hkis.org.hk](mailto:cpd@hkis.org.hk) or call the Secretariat on (852) 2526 3679.

**Basketball** enthusiasts, whether they be members, probationers, technical members or student members of HKIS, are welcome to team up and participate in the JO Basketball Cup 2006.

The participating teams will be divided into 2 groups, A & B. Each group will consist of 4 teams. Grouping will be decided through lots drawing by the Organizer.

A single round robin system on group basis will be adopted in the preliminary round. Leading teams and the 2<sup>nd</sup> leading teams of each group will be matched up individually to determine the champion, first runner up and second runner up of the cup. (The Organizer reserves the right to change the format of competition for each event according to enrollment situation.)

