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Judge Preska Highlights Virtues of New York During Global Law Week

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The Hon. Loretta Preska, Chief Judge of the SDNY, gave the keynote speech at the New York Bar Association's Global Law Week, titled "The Elements of Commerce in the Twenty-First Century: How Commercial Courts Enhance a City's Position as a Financial, Commercial, and Legal Hub." Judge Preska recounted New York's historical status as a commercial hub. She noted several characteristics New York possesses which make it (or any city) attractive to business and investment, such as an educated populace, a safe investment environment (including comprehensive rules and a pool of liquidity), and a sufficient infrastructure.

As the title of the program suggests, Judge Preska went on to note that, even where these attributes are present, the sustainability of a commercial hub depends upon the availability of commercial courts committed to the evenhanded application of the rule of law. Competent and impartial courts are the cornerstone of a commerce friendly legal system that encourages investment by enhancing investor's predictability and understanding regarding their rights and relationships. Commercial investment is encouraged by a local court system that is neutral and predictable, with independent judges, lawyers and prosecutors who ensure a fair and equal application of the law.

As an example of how New York courts have historically fit this bill, Judge Preska recounted several historical examples where New York courts issued well-reasoned decisions that followed the rule of law, notwithstanding that the outcome was against the interest of popular or powerful interests. This included an SDNY decision from the 19th century ordering that the French return a British vessel captured off the coast of New Jersey, notwithstanding that at the time France was our staunchest ally and Britain a fierce adversary. Another example involved a decision in the wake of the Titanic disaster, in which the Supreme Court, reviewing an SDNY decision, found that the English ship owner was entitled to rely on U.S. law providing for limited liability, which significantly curtailed the remedies available to scores of U.S. Claimants.

Judge Preska noted a sound local judiciary benefits businesses and lawyers alike by encouraging both local economic activity and foreign investment. Looking to the future, Judge Preska noted the increasing importance of arbitration and alternative dispute resolution in resolving cross-border disputes. She noted that New York was an arbitration friendly jurisdiction, with a pro-arbitration policy scrupulously enforced by local courts. Finally, Judge Preska cited NYIAC as an example of how New York continues to evolve and reaffirm its position as a choice forum for international dispute resolution.