

## Speech by Secretary for Justice at opening ceremony of Belt and Road Conference (English only)

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Following is the speech by the Secretary for Justice, Mr Rimsky Yuen, SC, at the opening ceremony of the Belt and Road Conference today (May 12):

President of the Law Society, Mr Thomas So; Chief Executive, Mr C Y Leung; Director of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, Mr Zhang Xiaoming; Acting Commissioner Madam Tong Xiaoling (Acting Commissioner of the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region); fellow members of the legal profession; distinguished guests; ladies and gentlemen,

Thank you for inviting me to this Conference. It is both an honour and a privilege to have this opportunity to meet all of you at this major commemorative event of the Law Society of Hong Kong for celebrating its 110th anniversary. May I, on behalf of the Department of Justice, extend to the Law Society our warmest congratulations on their significant contributions to the rule of law and the development of legal services in Hong Kong in the past 110 years.

The Belt and Road (B&R) Initiative is one of the hottest topics discussed in the world ever since it was announced by President Xi. The fact that the Law Society saw fit to choose the B&R Initiative as the theme for this important event as well as the fact that this event can attract so many leading representatives of the legal community and beyond from so many jurisdictions around the world provide strong testimony to the importance of the B&R Initiative.

### New Opportunities

In addition to people-to-people bonding, one of the key objectives of the B&R Initiative is to further enhance and integrate trade, financial and infrastructural connections among the countries along the B&R route. Increased trade and commercial activities among the B&R countries will give rise to a strong demand for professional services, including legal and dispute resolution services. As noted by the Working Party of the Organisation for Economic Co-operation and Development (OECD) Trade Committee:

"Indeed, without the inputs of lawyers, trade in ... services, as well as goods, would not occur in a structured, secure and predictable manner. Lawyers are increasingly playing a vital role in supporting and facilitating business in the world economy and are more and more regarded as part of the overall infrastructure of commerce .... International trade in legal services can also be seen as catalyst for foreign investment, contributing to the security and predictability of the local business environment" (Note 1).

Nevertheless, legal risks are inherent in cross-border transactions. Any enterprise and any jurisdiction which wishes to tap on the opportunities generated by the B&R Initiative would have to take proactive steps to get themselves ready in meeting the legal challenges ahead of us. Hong Kong, as a leading common law jurisdiction in the region, is in a unique position to provide the necessary legal and dispute resolution services. For the present purpose, I would like to take this opportunity to briefly share with you our major policy objective of promoting international legal and dispute resolution services in the Asia-Pacific region in the context of the B&R Initiative.

## Legal Risk Management

To begin with, Hong Kong is well equipped to provide a wide spectrum of legal risk management services for corporations from different jurisdictions, including those

from the B&R economies seeking to expand their markets overseas, including of course the Mainland market.

Our strong pool of local and overseas legal professionals, with a wealth of experience and expertise in many different areas, are best positioned to offer risk assessment-based advice touching on multiple practice areas to enable international companies to effectively avoid, manage and control legal risks and disputes at each and every stage of their business process. With its strategic geographical location as Asia's world city, Hong Kong is second to none if B&R countries are looking for an ideal legal hub with a strong base of and extensive connections with international law firms, providing a holistic and cost-effective approach to the provision of legal services to companies doing cross-border or international trade.

### Dispute Resolution Services

Under Hong Kong's arbitration regime, we place great emphasis on the confidentiality of arbitration proceedings and awards and the ease of cross-border enforcement of arbitral awards between the Contracting States of the New York Convention as well as with the Mainland and the Macau SAR. These are some of the major considerations which contracting parties would definitely take into account when deciding whether to choose Hong Kong as their venue for dispute resolution under the B&R Initiative.

It is accordingly for good reasons that our arbitration legislation is based on the latest (2006) version of the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law (UNCITRAL), which reinforces the advantages of arbitration, including the respect for parties' autonomy as well as the cost-effectiveness of the arbitral process. The user-friendly UNCITRAL Model Law, as you would know, is widely adopted by the major economies, which are major trading

partners with the B&R countries.

To embrace new opportunities which may present themselves, the Department of Justice spares no effort in keeping Hong Kong's arbitration regime abreast of ever changing circumstances and needs. Recently, we have introduced two amendment bills to the Arbitration Ordinance (Cap 609) to our Legislative Council, with a view to providing legal certainty, first, for the arbitrability of intellectual property rights disputes and, second, for third party funding of arbitration or mediation. When the legislative processes are completed (which I anticipate will be very soon), they will further enhance Hong Kong's position as an international arbitration centre in the region, as well as help better serve the needs of the development along the B&R economies.

### Investment Arbitration

As important as international trade as a means to connect the countries in the B&R region, infrastructural integration will also bring about enormous opportunities for development in the region, but the other side of the coin is that international investors have to handle the country risk and political risk with care. In this regard, it is pertinent to note the development of investor-state arbitration services that can be offered by Hong Kong.

With the support of the Central People's Government (especially the Ministry of Foreign Affairs), arrangement was made in January 2015 with the Permanent Court of Arbitration (PCA) so as to facilitate the conduct of PCA-administered arbitration in Hong Kong, including state-investor and other forms of international investment arbitration. This arrangement with the PCA, together with the other relevant measures we have implemented, place Hong Kong in an even better position to provide high-end specialist dispute resolution services to the international

business community.

Moreover, since October last year, the Hong Kong International Arbitration Centre (HKIAC) has introduced a new measure which is particularly relevant to investor-state arbitration in Asia. The HKIAC offers its hearing and meeting rooms to parties free-of-charge in respect of dispute resolution proceedings it administers, whether seated in or outside of Hong Kong, in which at least one party is a state on the List of Official Development Assistance of the Development Assistance Committee under the OECD (OECD List) (Note 2). HKIAC's offer of free hearing space is also of particular relevance to the Initiative's outbound investment given that of the 60-plus B&R jurisdictions, 70 per cent are included in the OECD List.

### Mainland Advantage

Apart from the expressed support of Chairman Zhang Dejiang for Hong Kong's development as an international legal and dispute resolution services centre in the Asia-Pacific region (as mentioned by the Chief Executive just now), the Opinion promulgated by the Supreme People's Court (SPC) of China in July 2015 has provided a signal of clear and strong policy support to the use of international arbitration as a means of dispute resolution in the B&R context. Such support provides further momentum to the development of international arbitration in the region and beyond, and a robust dispute resolution regime will enhance investors' confidence, which is essential in taking forward the B&R Initiative.

### Concluding Remarks

Ladies and gentlemen, the B&R Initiative is an unprecedented project. Its successful implementation requires the joint efforts of all the jurisdictions involved. The legal community definitely has a significant role to play.

And, if I may venture to suggest, the reason for the legal profession's participation in the B&R Initiative is not just for business development, nor just for the promotion of trade and commerce. The joint efforts of providing robust legal services to the B&R economies will contribute to the building of a transnational legal order, which will in turn promote the rule of law at the international level, and thus ultimately contribute to human advancement.

Hong Kong has always been and will remain an international city. Our legal and dispute resolution community stands ready to share our experience with friends from other jurisdictions. I thank the Law Society of Hong Kong for organising this Conference, and also thank all the speakers and participants for sharing their insights. But I am sure this event will only be a catalyst for further connectivity, further convergence and further collaboration among us.

On this note, it remains for me to wish this Conference every success, and wish all of you a fruitful day. For those who came from overseas to attend this event, may I also wish you an enjoyable stay in Hong Kong.

Thank you.

Note 1: "Managing Request-Offer Negotiations Under the GATS: The Case of Legal Services", OECD Trade Policy Working Paper No. 2, prepared by Massimo Geloso Grosso, June 14, 2004

Note 2: See "HKIAC offers free hearing spaces in cases involving developing states" and the OECD List. Available at [www.hkiac.org/zh-hant/node/1853](http://www.hkiac.org/zh-hant/node/1853) and the DAC List of ODA Recipients [www.oecd.org/dac/stats/documentupload/DAC%20List%20of%20ODA%20Recipients%202014%20final.pdf](http://www.oecd.org/dac/stats/documentupload/DAC%20List%20of%20ODA%20Recipients%202014%20final.pdf).

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