

Welcome speech by Secretary for Justice at seminar on "Legal Risk Management: Key to International Trade and Investment" (English only)

Following is the welcome speech by the Secretary for Justice, Mr Rimsky Yuen, SC, at the seminar on "Legal Risk Management: Key to International Trade and Investment" in Kuala Lumpur, Malaysia, today (November 7):

Mr Veerasagram (Senior Case Counsel, Kuala Lumpur Regional Centre for Arbitration, Mr Huganeswaran Veerasagram), distinguished guests, ladies and gentlemen,

On behalf of the Government of the Hong Kong Special Administrative Region, may I extend our warmest welcome to all of you for joining this seminar co-organised by the Department of Justice and the Hong Kong Trade Development Council.

Malaysia and Hong Kong have long enjoyed cordial relations in the context of trade and beyond. With the implementation of China's Belt and Road Initiative and the ASEAN - Hong Kong Free Trade Agreement soon to be signed, I am very positive that the partnership and the synergy arising from the strong nexus between us will be further strengthened.

Riding on the momentum of the Belt and Road Initiative, China's investment projects in Malaysia and economic activities between the two countries have proliferated significantly. In November 2016, China and Malaysia signed a total of 14 Memoranda of Understanding covering areas such as agriculture, education, finance, defence and construction. These 14 business arrangements, the sealing of which was witnessed by the Chinese Premier and the Malaysian Prime Minister, have an aggregate value of about US\$33.1 billion. In May 2017, a further nine business agreements covering construction, agriculture, stock

exchange, infrastructure as well as port and airport co-operation were signed between Chinese and Malaysian companies, again witnessed by the Chinese Premier and the Malaysian Prime Minister, with proposed investment estimated at US\$7.22 billion.

Behind all these investment projects, a variety of professional services are required to turn vision into fruitful results. In this regard, Hong Kong is not just the ideal bridge between Mainland China and Malaysia, but is also well placed to provide a wide range of professional services to facilitate Malaysian businesses in grasping emerging opportunities as projects contemplated under the Belt and Road Initiative unfold.

This brings me to the theme of this session - legal risk management. Legal risks are inevitable in virtually all business ventures, even if each business partner is seeking to act as reasonable and bona fide as possible. That explains why legal risk management is so important in modern business practice.

Legal risk management, of course, is not confined to a dispute resolution mechanism that can be resorted to after disputes have arisen. Instead, legal risk management becomes relevant even before a party decides whether to engage in an investment at a particular place, and covers each and every stage thereafter. Put briefly, legal risk management includes: (1) legal due diligence; (2) consideration of the appropriate mode of contractual arrangement; (3) the proper drafting of contract; and (4) the design of clauses or schemes relating to dispute resolution.

With a robust legal regime, Hong Kong is ready and able to serve as an international and yet neutral legal risk management and dispute resolution hub. Our speakers will share with you the key features of Hong Kong as an

international legal and dispute resolution centre in the Asia-Pacific region. Allow me just to highlight a few of the key factors.

First, by reason of the "one country, two systems" policy, Hong Kong maintains the common law legal system, which is familiar to the international business community. To our friends in Malaysia, common law will be no stranger.

Second, we have a robust legislative regime which robustly enforces contractual rights and effectively resolves disputes. Examples include our Arbitration Ordinance and our Mediation Ordinance.

Third, we have a top-quality and truly independent Judiciary. A unique feature of our judicial system is that we have top judges from other common law jurisdictions including the United Kingdom, Australia and New Zealand serving as non-permanent judges of our Court of Final Appeal.

Fourth, for decades, the Government has been providing unfailing support to the promotion of dispute resolution including arbitration and mediation. Gladly, our efforts have met with international recognition. According to the 2015 International Arbitration Survey conducted by the Queen Mary University of London, Hong Kong was ranked third globally as the preferred seat of arbitration, just behind London and Paris.

We will of course continue to upgrade our system. In this aspect, if I may highlight two sets of legislative amendments which were made only a few months ago. The first set of amendments is made to both our Arbitration Ordinance and our Mediation Ordinance, and which clarifies that third-party funding for arbitration and mediation is not prohibited by the common law doctrines of maintenance and champerty. The second set of amendments, which is

made to our Arbitration Ordinance, clarifies that disputes over intellectual property (IP) rights can be resolved by arbitration. As a result of this amendment, parties can resolve efficiently in a single forum their IP rights disputes which may occur in multiple jurisdictions without having to fight parallel court proceedings in different jurisdictions, thereby achieving significant saving of costs and time.

Such a concept of one-stop service is also extended to mediation. To facilitate the use of evaluative mediation in addition to facilitative mediation for disputes including disputes over IP rights, a dedicated committee was recently established under our Steering Committee on Mediation to study the provision of evaluative mediation services in Hong Kong, and to make the necessary recommendations. I am sure you will hear more about the protection of IP rights from experts in this area later this afternoon.

Ladies and gentlemen, we have come here partly to introduce to you the legal risk management services that Hong Kong can offer. But that's not our only aim, as we have also come here to consolidate our co-operation with Malaysia, including co-operation in the context of international legal and dispute resolution services. The Kuala Lumpur Regional Centre for Arbitration has been making significant progress since its establishment and its achievements in recent years have been practically outstanding. Hong Kong looks forward to building and maintaining closer collaboration with our dispute resolution counterparts in Malaysia as we believe it is in our mutual interest to do so, and that is why we very much cherish the opportunity available today for exchanging views and sharing experience with you.

On this note, it remains for me to wish the Seminar every success, and also to wish all of you an enjoyable and fruitful afternoon.

Thank you.

Ends/Tuesday, November 7, 2017