

Sale of Goods (United Nations Convention) Bill to be introduced into LegCo

The Government will introduce the Sale of Goods (United Nations Convention) Bill into the Legislative Council (LegCo) to implement the United Nations Convention on Contracts for the International Sale of Goods (CISG) in the Hong Kong Special Administrative Region, with a view to enhancing Hong Kong's legal infrastructure for the international sale of goods and bolstering its role as an international hub for trade and dispute resolution.

A spokesman for the Department of Justice said today (July 7), "The CISG is an important and widely adopted Convention. With 94 Contracting States as at the end of June this year, it is a commercial law treaty which provides a set of uniform rules governing contracts for the international sale of goods within its scope. Its purpose is to provide a modern, uniform and fair regime for contracts for the international sale of goods, thereby introducing certainty in commercial exchanges and decreasing transaction costs.

"The Government conducted a public consultation on the proposed application of the CISG to Hong Kong during the period from March to September 2020. In summary, there is general support among the respondents to the consultation (including the Hong Kong Bar Association and the Law Society of Hong Kong).

"The benefits of applying the CISG to Hong Kong include the potential to drive GDP and trade growth, preventing Hong Kong businesses from being subject to unfamiliar foreign laws when entering into cross-boundary transactions, improving Hong Kong's competence in resolving CISG disputes, and providing Hong Kong businesses with an additional choice of law option."

While China is a Contracting State to the CISG, the CISG is currently not applicable to Hong Kong.

The CISG applies automatically to contracts for the sale of goods between parties whose places of business are in different Contracting States. Further, it also applies to international sales contracts where the rules of private international law of the forum lead to the application of the law of a Contracting State according to Article 1(1)(b) of the CISG, although any State may declare under Article 95 that it will not be bound by this provision. While China has made such reservation when joining the CISG, the

Government plans to apply the CISG without such reservation to Hong Kong, taking into account the responses received in the public consultation.

Party autonomy is a fundamental principle of the Convention. With very limited exceptions, the parties can, by agreement, derogate from or vary the effect of any provisions of the CISG, or exclude the Convention's application entirely.

Noting that relevant stakeholders may require time to adapt to the change and adjust their business practice and affairs as appropriate, the Government plans to defer the commencement of the Bill until at least six to nine months after its passage.

After the enactment of the Bill, the Government will seek the assistance of the Central People's Government in completing the necessary steps for the above application of the CISG to Hong Kong pursuant to Article 153 of the Basic Law.

The Bill will be gazetted on Friday (July 9), and will then be introduced into LegCo on July 14.

Ends/Wednesday, July 7, 2021