

SJ's speech at a business luncheon in Paris (English only)

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Following is the keynote address (titled "Seizing Opportunities in Asia through Hong Kong") by the Secretary for Justice, Mr Wong Yan Lung, SC, at a business luncheon jointly organised by the Hong Kong Economic and Trade Office, Brussels, and the Hong Kong Trade Development Council during his European visit on October 4, Paris time:

Good afternoon, Distinguished Guests, Ladies and Gentlemen,

I was told that a trip to Paris in the autumn is recommended for the quiet and contemplative feel. There are indeed a lot to think through amidst worries over the unstable global economy and financial markets. However, the joie de vivre filling the Champs Elysees is still very evident and heart warming.

Thank you for giving me the opportunity to address this gathering of distinguished guests from the business and legal sectors of Paris. I would like to spend the next fifteen minutes or so to tell you a bit more about Hong Kong. You may already be very familiar with Hong Kong as an international financial and trading centre. But perhaps you could revisit Hong Kong with me from a more "legal" perspective. "Legal" not in the academic and boring sense, but in the practical sense which hopefully is relevant to your business plans, particularly if you are thinking of switching to, or penetrating deeper into, the vast China and Asian Pacific markets.

Close Links between France and Hong Kong

Despite being a British colony before 1997, Hong Kong has enjoyed a long and close connection with France for over one and half centuries. A very good reminder of that historical tie, with also a strong "legal" context, is the building which currently houses Hong Kong's highest court, the Court of Final Appeal. This neo-classical granite and red brick structure,

standing in the heart of our business district, and symbolising the highest regard for the rule of law, was formerly the French Mission Building built in 1917.

Today the cordial relationship between the France and Hong Kong continues to thrive. The French business community in Hong Kong is one of the largest in the Asia Pacific, and French companies are doing well in all major sectors of our economy, including banking, finance, transport, media, construction, catering and tourism.

Among the EU Member States, France is Hong Kong's third largest trading partner in 2010. Despite the economic downturn following the financial crisis, the value of bilateral trade between Hong Kong and France reached six billion Euros in 2010.

For the past two years, Hong Kong has led the world in total funds raised through Initial Public Offerings (IPOs), surpassing London or New York. In 2010, total IPO funds raised reached 40 billion Euros. French companies have joined many others to take advantage of Hong Kong's potential as a capital-raising centre while leveraging on their reputation for quality and reliability. In April 2010, L'Occitane became the first French enterprise to list on the Hong Kong stock market. It raised more than 500 million Euros through its Hong Kong IPO.

#### Rule of Law as the Key to Hong Kong's Success

The vote of confidence in Hong Kong's business environment has been unswerving since we were reunited with Mainland China in 1997. Hong Kong has remained the world's freest economy in each of the past 13 years, according to the US-based Heritage Foundation. And just two weeks ago, the Canadian-based Fraser Institute released its 2011 annual report on "Economic Freedom of the World", and Hong Kong has again been ranked as number one in the world for Economic Freedom - a ranking which we have been enjoying for 33 years

consecutively.

Economic freedom aside, Hong Kong is also performing well in terms of our competitiveness. Hong Kong is ranked the world's most competitive economy by the World Competitiveness Yearbook 2011 released by the International Institute for Management Development in May 2011. Investments are still coming with gusto. According to the "World Investment Report 2011" released by the United Nations Conference on Trade and Development in July, Hong Kong was the third largest recipient of foreign direct investment in the world in 2010.

Of course the seismic changes in the global economic landscape we experienced in the past few years, and the rapid rise of China as an economic power, are important factors affecting Hong Kong. However, key to the business confidence in Hong Kong, as almost universally acknowledged, is the solid legal system and infrastructure Hong Kong enjoys.

Hong Kong is unique in the world as the most international city of the People's Republic of China and at the same time a global financial centre run on a separate common law system and as a separate customs territory. Common law is not only preserved but it is enriched by the Basic Law our constitution. Since 1997, precedents from other common law jurisdictions can be referred to in our courts, and major international covenants on the protection of fundamental rights have been incorporated into our law, thus significantly widening the foundation of our jurisprudence.

Judicial independence is guaranteed on a constitutional level. The Court of Final Appeal is served not only by top judges from within Hong Kong but also world class jurists from other jurisdictions including serving Supreme Court judges from the United Kingdom and retired chief justices from Australia. According to the World Economic Forum report in 2010, so far as judicial independence is concerned, Hong Kong ranked 15th out of 139 countries and was among the best in

Asia.

A robust legal system could not work well without the support of a strong, independent and international legal profession. Hong Kong is home to over 7 000 solicitors and over 1 100 barristers. In addition, we have nearly 1 300 registered foreign lawyers from 28 jurisdictions. Keen and healthy competitions from overseas law firms in Hong Kong have resulted in a sophisticated legal sector with cross-fertilisation of experience. Our legal profession possesses a wide spectrum of expertise in areas such as capital markets, corporate finance, securities, banking, intellectual property, information technology, maritime law and many more.

The international dimension has always been the forte of Hong Kong's legal services. We are working on a new law introducing limited liability partnership (LLP) as a business model for solicitors' practice. When the law is passed, and we expect it to be sometime next year, it will provide further incentive for local and foreign law firms to join forces, and for law firms generally to combine their strengths, to enhance competitiveness and further underpin Hong Kong's status as a regional legal services hub.

I should also add that the Basic Law is designed to strengthen Hong Kong's international links with the world. While the Central People's Government is responsible for defence and foreign affairs, Hong Kong has been authorised under the Basic Law to conclude and implement agreements with foreign states and regions in the economic, trade, financial, monetary, shipping, communications, tourism and other cultural fields. Since 1997, Hong Kong has concluded over 190 bilateral agreements with around 70 foreign governments.

Greater Access to the Mainland China market

In the meantime, we are of course making the most of our

strategic position under the "One Country, Two Systems" principle, to better connect ourselves with the Mainland economic powerhouse.

Apart from the obvious connectivity advantage, there are many reasons for choosing Hong Kong as a stepping stone into Mainland China and the rest of the Asia Pacific region, as opposed to any other means of access.

Firstly, the mature and reliable legal infrastructure in Hong Kong including world-class regulatory framework, corporate governance, investor protection, corruption-free business environment and familiar commercial legal principles, is supported by an independent judiciary, superior legal talents and supporting facilities, as well as a low and simple tax regime.

Secondly, the central authorities in Mainland China are rendering unwavering support to Hong Kong as a matter of national policy and interest. China is making full use of Hong Kong's strength in the legal field to enhance its own economic interests in the global arena. Hong Kong is China's global financial centre to attract capital and talents.

As recently as on 17 August 2011, the Vice-Premier of the State Council, Mr Li Keqiang, announced a series of measures to support the further development of Hong Kong as the offshore Renminbi (RMB) business centre. The latest measures include further expansion of the RMB trade settlement scheme, support for the use of RMB for foreign direct investments in the Mainland, expansion of the issuance of RMB bonds in Hong Kong by Mainland entities (including financial institutions and corporate).

And just last month we commenced the negotiation with the Mainland side on the 8th supplement to CEPA, i.e. the Mainland and Hong Kong Closer Economic Partnership Arrangement, which is a free trade agreement between Hong Kong

and Mainland China. Under CEPA, all Hong Kong products enjoy zero import tariffs into the Mainland. Service suppliers in 44 areas receive preferential market access treatment in the form of lower barriers for entry into the Mainland.

French companies may benefit from our CEPA with the Mainland if they set up production facilities in Hong Kong. For service suppliers, French subsidiaries in Hong Kong may take advantage of the liberalisation measures as long as they satisfy the definition of "Hong Kong service suppliers" under the CEPA.

Hong Kong's position as the natural gateway to Mainland is particularly prominent and unrivalled when it comes to the Pearl River Delta. This is the manufacturing powerhouse and economic hub of the Guangdong province. In 2010, the GDP of the Pearl River Economic Zone amounted to US\$552 billion, 146 per cent more than that of Hong Kong.

It is therefore not surprising that despite the impressive growth of foreign investments in other cities of China, as at 1 June 2010, Hong Kong was host to over 6 500 overseas, Mainland and Taiwan companies representing parent companies located outside Hong Kong. And of these companies, over 3 600 served as regional headquarters or regional offices.

Mainland China's legal services market

Benefiting from CEPA is also the legal profession in Hong Kong. Hong Kong law firms, which have set up representative offices in the Mainland, are allowed to form "association" with Mainland law firms. Mainland law firms can also employ Hong Kong legal practitioners. These and other measures, against the backdrop of the rapid development in the Pearl River Delta, enable the Hong Kong lawyers to have a competitive edge over others in gaining greater access to the Mainland market.

It is possible for a foreign law firm registered in Hong Kong, including a French law firm, to be converted to a Hong Kong law firm in compliance with the relevant Solicitors' Practice Rules. And if that is done, and other conditions laid down by CEPA satisfied, the converted firm may benefit directly from the liberalisation measures. In any event, by having business association with a Hong Kong law firm, a foreign law firm can also indirectly benefit from enhanced access into the Mainland market, thereby extending the horizon of their specialised and global legal services which are becoming more and more in demand.

### Hong Kong as Leading International Arbitration Centre

Such increasing demand from China includes recourse to international arbitration services to resolve business disputes. It is the established policy of our Government to develop Hong Kong into a leading dispute resolution centre for the Asia Pacific.

I have already touched upon our inherent strengths and credentials. Such advantages are further underpinned by the fact that Hong Kong arbitral awards are enforceable not only in more than 140 contracting states to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, but they are also enforceable in Mainland China by virtue of a mutual legal assistance arrangement reached in 1999.

The Hong Kong International Arbitration Centre (HKIAC), our own home-grown arbitration body, will be celebrating its 26th anniversary next month. HKIAC handled, in 2010, more than 170 international arbitration cases and is ranked second in Asia in terms of the total number of new cases handled.

A recent landmark in the development of arbitration in Hong Kong is no doubt our enactment of a new Arbitration Ordinance. With the new ordinance coming into operation in

June 2011, we now have a unified arbitration regime based on the UNCITRAL Model Law on International Commercial Arbitration. Our law becomes in tune with the latest and best international practice, and becomes more familiar and easily accessible to both local and foreign arbitration users and practitioners.

As large international arbitration cases involving Chinese parties are on the rise, some international arbitration bodies are already moving east into the Asia Pacific region. Among the pioneers is the International Court of Arbitration of the International Chamber of Commerce (ICC), which is based in Paris.

ICC opened a branch of its Secretariat in Hong Kong in November 2008, which is the first ever outside Paris. The Secretariat serves the Asia Pacific Region and is responsible for administering ICC arbitrations from its base in Hong Kong. This is a significant move by an international arbitration institution of high reputation and a show of confidence in Hong Kong's position as a centre of dispute resolution.

Exciting opportunities in Qianhai

Recently, what makes ICC and other arbitration professionals excited is a new project emerging in Qianhai, located in Shenzhen, Guangdong. Qianhai is known as "the Special Economic Zone within the Special Economic Zone". It has been designated as a Hong Kong/Guangdong modern service industry innovation and co-operation zone. The modern service industries envisaged include financial services and insurance.

Under the relevant regulations, there are initiatives to encourage Hong Kong arbitration bodies to provide arbitration services to enterprises set up in Qianhai. During the recent visit I mentioned earlier, Vice-Premier Li Keqiang expressly indicated support for Hong Kong arbitration institutions to establish offices in Qianhai. We are now



actively liaising with the relevant authorities to see how these initiatives can be speedily implemented. And we very much hope that Qianhai as a pilot scheme will become an example for other cities in the Mainland to follow.

Not forgetting Asia

So much about innovative moves in China, we have of course not forgotten the wider Asian market. The Asian Development Bank forecast in July this year that the GDP growth for the emerging East Asia will moderate when compared to 2010, but the growth will still reach an impressive 7.9 per cent in 2011 and 7.7 per cent in 2012.

As Asia remains a place of active economic growth, Hong Kong's role as a springboard to opportunities throughout Asia will also continue. Apart from our prime location in the heart of East Asia, which means that we are within five hours flying time of half the world's population, Hong Kong offers myriad benefits and services for international firms weighing a move to Asia.

Conclusion

Well, Ladies and Gentlemen, when even the gatekeepers of the world economy, such as Ms Christine Lagarde of the IMF, are talking about "dark clouds over Europe", I hope what I have just shared with you can offer a little dose of more upbeat optimism and opportunities.

As ICC has made the significant move to extend its international arbitration arm to the Asia Pacific using Hong Kong as a stepping stone, there is much more Hong Kong can offer to other European businesses as a reliable platform to pursue opportunities in the fastest growing region in the world.

In fact, just before I left Hong Kong on Monday, I read

from the Wall Street Journal Asia that the head of Bank of America Merrill Lynch's international marketing and corporate affairs relocated from Boston to Hong Kong recently. When asked for the reasons of the move, the answer was, "One half of the world's population, one third of the world's GDP, five of the top ten countries for high-net-worth individuals. The facts are overwhelming."

On that note I shall end, and may I wish you all good health and happiness. Thank you very much.

Ends/Wednesday, October 5, 2011