

Speech by SJ at luncheon in Seoul (English only)

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Following is the speech, entitled "Role of Hong Kong as East Asia Rises - A Legal Perspective", delivered by the Secretary for Justice, Mr Wong Yan Lung, SC, at a luncheon in Seoul today (December 8):

Distinguished guests, ladies and gentlemen,

Introduction

Thank you for taking time to attend today's luncheon and giving me the opportunity to share some thoughts with you.

I have always been a great fan of South Korea. But don't get me wrong. I am not a follower of the South Korean TV drama series which are very popular in Hong Kong. What really impresses me is the quality of Korean production and products, from TV to high tech electronics, successfully penetrating the worldwide market, and competing confidently with the very best around the globe. To me, South Korea exemplifies the strong can-do spirit, with which Hong Kong is also associated.

That impression was further reinforced during my tenure as Secretary for Justice in Hong Kong. I have in the past few years had the privilege of meeting with some of your government officials. Apart from a strong quest for very high standards, they also demonstrated a robust determination to put South Korea on the world map in different ways, to assume a more active and significant role as a member of the international community.

South Korea and Hong Kong share many common characteristics. They include diligence, resilience, keen pursuit of excellence and an ever increasing internationalism. As Secretary for Justice of Hong Kong, I consider moving in these fundamental directions in the legal field to be absolutely crucial for Hong Kong, especially as we seek to

further strengthen ourselves as a leading international financial centre.

China's financial centre and offshore RMB business centre

Hong Kong is the prime global financial centre in the Asian time zone. We ranked number one in the world in terms of IPO (initial public offering) funds raised in 2009 and 2010. We are likely to come first also in 2011, as reported by the Wall Street Journal on Monday. At the end of August 2011, market capitalisation of our stock market was almost US\$2,500 billion, ranking seventh in the world and third in Asia.

By glancing at the profile of the companies seeking listing on our Stock Exchange, it is plain that Hong Kong's position as China's global financial centre is both entrenched and growing. Companies in the market right now include China's second biggest brokerage house, and the fourth biggest insurer.

In his visit to Hong Kong in August this year, Vice-Premier Li Keqiang pledged strongly Beijing's support of Hong Kong as China's offshore Renminbi (RMB) business centre. Among the series of measures he announced are the further expansion of the RMB trade settlement scheme, support for the use of RMB for foreign direct investments in the Mainland, as well as the expansion of issuance of RMB bonds in Hong Kong by Mainland entities.

Gateway to China

Hong Kong itself is still a major investor in Mainland China. Today, Hong Kong and Mainland China have a combined investment of over US\$800 billion in each other's economies.

Although international investors are gaining direct access into the China market, Hong Kong still remains a strategic gateway to China. Hong Kong occupies a strategic geographical location, as we are the southern entrance to

China within five hours' flying time of half the world's population. Hong Kong's strategic position lies also in the unique "One Country, Two Systems" principle in operation since 1997, buttressed by first-class legal and infrastructural support.

As borne out by the statistics, many still consider it advantageous to use Hong Kong as the stepping stone. 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. As in June this year, Hong Kong was host to about 7 000 overseas, Mainland and Taiwan companies representing parent companies located outside Hong Kong. Of these companies, more than 3 700 served as regional headquarters or regional offices.

In 2011, Hong Kong was again rated the world's freest economy by the US-based Heritage Foundation; Asia's top financial city in the Global Financial Centres Index; and top in terms of overall competitiveness in the World Competitiveness Yearbook by the International Institute for Management Development.

Key to Hong Kong's success: the rule of law

If one goes behind all these international agencies' ratings and analysis, a key factor in favour of Hong Kong is the rule of law and the independence of the judiciary.

Hong Kong is the only common law jurisdiction within the whole of China. And common law is still predominantly the legal bedrock upon which globalised business is being transacted. Since 1997, our courts are empowered to refer to precedents of common law jurisdictions other than England. As a result, our jurisprudence has been enriched with many comparative materials as well as the best international practice.

The business communities, including international investors, have strong confidence in the judiciary of Hong Kong because of their independence and standard. Judicial independence is guaranteed by the Basic Law, our constitution. And since 1997, we have established our own final court of appeal to replace the Privy Council in London. The Court of Final Appeal comprises not just the best judicial talents from within Hong Kong, but also top judges from other common law jurisdictions, including serving Supreme Court Justices from the United Kingdom and the three retired Chief Justices of the High Court of Australia.

Our constitution has also incorporated seven major international covenants on fundamental rights and freedoms. These rights include the right to private ownership of property, freedom of movement and privacy, which are cardinal to a modern and secure business environment.

And Hong Kong is one of the safest cities in the world. International surveys and studies consistently rank Hong Kong's business culture among the freest and cleanest in Asia and worldwide. Hong Kong is consistently rated as one of the least corrupt places in the world in Transparency International's Corruption Perceptions Index.

People and talents are key. Hong Kong has attracted a large pool of strong legal professionals consisting of both local talents and experts from other jurisdictions to offer world-class legal services to clients in Hong Kong. At present, there are over 7 100 solicitors and 1 100 barristers practising in Hong Kong. In addition, we have over 1 300 registered foreign lawyers from various jurisdictions working in Hong Kong. Together they provide a quality, multi-faceted and internationally connected force of legal practitioners, capable of handling the most sophisticated mega deals in the globalised economy.

Many lawyers in Hong Kong are well connected with their

Mainland counterparts. In fact, under the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), Hong Kong lawyers enjoy an edge in association with Mainland law firms, in setting up representative offices in Mainland cities, and in gaining access in the vast legal services market in China generally.

We see huge potential in expanding Hong Kong's legal services and it has been our policy to develop Hong Kong into a regional dispute resolution centre, in particular, as an international arbitration hub. Hong Kong is well suited to play that role as an international arbitration centre. Hong Kong arbitral awards are enforceable in more than 140 contracting states to the 1958 New York Convention. Enforcement in Mainland China is further reinforced by a special arrangement signed in 1999.

The Hong Kong International Arbitration Centre, our own home-grown arbitration body, just celebrated its 26th anniversary. In 2010, it handled more than 170 international arbitration cases and was ranked second in Asia in terms of number of cases. We have also recently revamped our arbitration law, introducing a new unified regime based on the UNCITRAL (United Nations Commission on International Trade Law) Model Law on International Commercial Arbitration, bringing our law in line with the best international practice.

Key to Hong Kong's success: internationalism

The promotion of international arbitration provides a good example of another important forte of Hong Kong: internationalism.

I have already mentioned the strong presence of foreign lawyers in Hong Kong. In addition, we have been opening our doors to major international arbitration bodies to come to Hong Kong. For example, the International Court of Arbitration of the International Chamber of Commerce (ICC) opened the

first branch of its Secretariat in Hong Kong in 2008, and has been doing well benefiting from the increase of arbitration cases involving Mainland Chinese parties.

I understand Korean businessmen have been resorting to arbitration to resolve disputes for a long time. For international arbitrations, many of you are users of the ICC's facilities. The Korean legal community is active on the arbitration scene. This is certainly an area where closer co-operation between Hong Kong and Korea can be mutually beneficial and further explored.

Still on our status as an international city, Hong Kong takes pride in fostering the most internationalised business environment. Take banking, for example: we are always vigilant to ensure our capital and liquidity frameworks are consistent with international standards. We are taking active steps to implement Basel III, the regulatory package released by the Basel Committee on Banking, endorsed by the leaders of the G20 (Group of Twenty) at the Seoul Summit in November last year. We also have continuing programmes to work on improving our corporate governance and investor protection.

On Hong Kong's international network, I must highlight the special constitutional arrangement between Mainland China and Hong Kong. As a special administrative region, we have been authorised by Beijing to conduct external affairs in the economic and many other fields.

In our status as a special administrative region of China, we have entered into around 200 bilateral agreements with about 70 countries. The subject matter includes air services, investment promotion and protection, avoidance of double taxation, mutual legal assistance in criminal matters, and many more. In addition, Hong Kong participates in international organisations and conferences in different capacities, including the WTO (World Trade Organization), the IMF (International Monetary Fund), APEC (Asia Pacific

Economic Co-operation) and the Asian Development Bank. And of the 250-odd multilateral treaties which are implemented in the HKSAR, more than 70 do not apply to Mainland China.

In addition to implementing those agreements, my department is active in the fight against transnational crime. We have been an active member of the International Association of Prosecutors, who held their annual conference and general meeting in Seoul earlier in June this year. We also support the Financial Action Task Force and the Asia Pacific Group, which combat money laundering and the financing of international terrorism.

One of the recent endeavours we are making to better international co-operation on legal matters is to invite the Hague Conference on Private International Law to set up a regional office in Hong Kong. The Hague Conference promotes a number of conventions to streamline commercial, legal co-operation and family law matters. We believe the extension of the work of the Hague into the Asia-Pacific region will bring benefit to everyone, facilitating commerce and international trade not only for Hong Kong but also for our trading partners in the region.

Key to Hong Kong's success: the staunch support of the Chinese Government

The flexible and innovative measures adopted by the Central People's Government of China allowing Hong Kong a high degree of autonomy illustrates the extent to which China is prepared to support Hong Kong. And this is yet another important key to Hong Kong's success.

I have mentioned CEPA already. In addition, the Central People's Government of China has also facilitated greater regional co-operation within China by implementing pilot projects and other initiatives. Of particular importance is the Framework Agreement on Hong Kong/Guangdong Co-operation,

reinforcing Hong Kong's position as the financial centre of the Pearl River Delta Region.

What has made lawyers and arbitrators more excited is a new project emerging in Qianhai, located in Shenzhen, Guangdong, which has been designated as a Hong Kong/Guangdong modern service industry innovation and co-operation zone. Under the relevant regulations, there are initiatives to encourage Hong Kong arbitration bodies to provide arbitration services to Mainland enterprises there and to widen the use of Hong Kong law in resolving commercial disputes.

Conclusion: more co-operation within Asian Pacific region

While the China market is inevitably a focal point, we have not forgotten the wider Asian Pacific region. The focus on Asia gets more or more intense as the Euro crises and weak US economy continue. According to the Asian Development Bank forecast in July, although the GDP growth for the emerging East Asia will moderate when compared to 2010, the growth will still reach an impressive 7.9% in 2011 and 7.7% in 2012.

Hong Kong and Korea have a long and close trading relationship. In 2010, Korea was Hong Kong's sixth largest trading partner and our bilateral trade had increased to approximately HK\$190 billion. The above is complemented by a bilateral agreement on investment promotion and protection signed between Hong Kong and Korea in 1997.

There are many similarities between Hong Kong and South Korea. Both are very outward-looking. We thrive on resilience and tenacity, to weather through economic and other crises. Both South Korea and Hong Kong managed to ward off recession despite the global economic crisis.

We rely heavily on human resources to drive the knowledge-based economy. We all put tremendous emphasis on education. Our children grow up in very competitive

environment. We send many children to study overseas. We spend a lot of money on our children's private tuition. I gather that the Korean Government had to introduce a law to ban private tuition being held after 10pm at night!

It is with such remarkable drive that we see tremendous energy and hope being released from within Asia. And we look forward to many more opportunities for Korea and Hong Kong to work together, both in the business and in the legal fields.

On that note, I would like to thank you for patience in listening. And Christmas is fast approaching - may I wish all of you peace and joy, with every blessing to you and your family. Thank you.

Ends/Thursday, December 8, 2011