

**Opening speech by Ms Teresa Cheng, SC
Secretary for Justice
The HCCH 125 – Ways Forward
Challenges and Opportunities in an
Increasingly Connected World
18 April 2018**

Dr Bernasconi, Commissioner Xie Feng, Chief Justice,
Distinguished Guests, Ladies and Gentlemen,

It is my great honour and pleasure to welcome you to Hong Kong and take part in this global conference in celebration of the 125th anniversary of the Hague Conference on Private International Law (“Hague Conference”).

2. The Department of Justice of the Government of the Hong Kong Special Administrative Region (“HKSAR”) has the great honour of supporting the Hague Conference, through its Regional Office for Asia and the Pacific (“Asia Pacific Regional Office”), in hosting this global conference in Hong Kong.

3. It is only right that we pay tribute to the Hague Conference for its invaluable contribution to the developments of private international law in the past 125 years. Since its establishment in the late nineteenth century, it has grown into a global inter-governmental body with 83 members working

zealously for the progressive harmonization of private international law.

4. With the rapid expansion of cross-border transactions, mobility of people, and globalisation generally, we would all benefit from the steady development of a clear and comprehensive international legal framework. The Hague Conventions facilitate these transnational activities, and protect the interests of individuals and corporations through the provision of an infrastructure for co-ordination of laws, co-operation amongst courts and other authorities and establishment of international norms. These developments are indispensable in an age of globalization for the pursuit of justice and the common good.

5. Hong Kong is most privileged to have been chosen as the place for the Asia Pacific Regional Office. With the establishment of the Asia Pacific Regional Office in Hong Kong in 2012, the visibility and profile of the Hague Conference have been raised further in the Asia Pacific region. This is well illustrated by, for example, the Joint Ministerial Statement of Trade Ministers of APEC economies in 2014, which welcomed the joint efforts of the APEC Economic Committee and the Asia Pacific Regional Office of the Hague Conference “to build awareness of private international law instruments to facilitate

cross-border trade and investment, enhance ease of doing business, and foster effective enforcement of contracts and efficient settlement of business disputes”.¹

6. Hong Kong also hosted events organized by the Hague Conference in the region such as its Asia Pacific Weeks 2014 and 2015, its Global Conference on Child Support and Family Maintenance in Asia-Pacific and Worldwide in 2015, and, of course, this important 125th Anniversary Conference. The success of these events has clearly demonstrated the significant relevance and potential of the Hague Conventions on private international law for the Asia-Pacific region.

7. After 1997, representatives from the Government of Hong Kong SAR have been participating actively in meetings of the Hague Conference as part of the Chinese delegation. This is only made possible by Article 152 of the Basic Law, the constitutional document of the HKSAR. It provides that representatives of the Government of the HKSAR may, as members of delegation of China, participate in international organizations or conferences in appropriate fields limited to states, and may express their views, using the name “Hong Kong, China”. Indeed, Hong Kong’s participation in the Hague

¹ https://www.apec.org/Meeting-Papers/Annual-Ministerial-Meetings/2014/2014_amm: paragraph 48.

Conference is one of the best illustrations of the successful implementation of the “One Country, Two Systems” policy enshrined in the Constitutional Law of China and the Basic Law.

8. Currently, nine Hague Conventions are applicable in Hong Kong. These Conventions have served Hong Kong well in many ways, not just in the international context but also in forming a framework for adaptation for the mutual legal assistance and arrangements that are put in place between the Mainland and Hong Kong.

9. For instance, the provisions and principles underlying the 2005 Hague Convention on Choice of Court Agreements (“Choice of Court Convention”) have been adapted in devising a similar arrangement on reciprocal recognition and enforcement of civil and commercial judgments between Hong Kong and the Mainland in 2006 (“2006 Arrangement”). There are a number of similarities between the Choice of Court Convention and the 2006 Arrangement, such as the requirement of an exclusive choice of court agreement, the restriction to business-to-business cases, and the limited grounds for refusal of recognition or enforcement.

10. There are more examples: the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil

and Commercial Matters has prompted Hong Kong to enter into an arrangement on the same subject with the Mainland in 1999, and with the Macao SAR in 2017. We have drawn on the experience of the Hague Evidence Convention when discussing with the Mainland an arrangement on taking of evidence in civil and commercial matters between the courts of the Mainland and the HKSAR in 2016.

11. We take great interest in the current Judgment Project of the Hague Conference which seeks to facilitate a much wider international recognition and enforcement of judgments in civil and commercial cases.

12. As confirmed at the meeting of the governing organ of the Hague Conference in March this year, good progress has been achieved. Arrangement is being made to prepare for the final Special Commission Meeting next month and a Diplomatic Meeting in mid-2019 to conclude the Project. With the support of the Central People's Government, Hong Kong has been actively participating in this Project as part of the Chinese delegation.

13. The future instrument to be adopted under the Judgment Project would complement the Choice of Court Convention, and would help further enhance the utility and efficiency of

cross-border dispute resolution. The international experience will no doubt inspire and encourage the finalization of the arrangement for mutual recognition and enforcement of judgments between the Mainland and Hong Kong.

14. After conclusion of the Judgment Project, the promotional and post-Convention work are indispensable in order to ensure early entry into force and successful implementation of the instrument. In this regard, Hong Kong would be able to play an important role in the promotional and capacity-building work in this part of the world.

15. Apart from the Judgment Project, there are also other areas of private international law which may warrant further work by the Hague Conference, whether in the spheres of commerce and trade, or of persons and families. We look forward to working closely with the Hague Conference and the international community to further these projects.

16. The theme of this conference – Challenges and Opportunities in an Increasingly Connected World – is timely. No jurisdiction or region stands alone, or can stand alone, in this time of inter-connectivity. Integration, harmonisation and connectivity are attributes that underpin a modern world of peaceful co-existence. The Belt and Road Initiative promotes

connectivity in five areas: political, infrastructure, trade, finance and people connectivity. In each of these aspects conflict of laws issues will have to be properly addressed.

17. The Chinese word for crisis, 危機, 危 and 機 connotes two concepts - Challenges and Opportunities. Do we have a crisis? We obviously have challenges in an increasingly connected world. But we also have an opportunity. With the discussions amongst the experts from different regions that are to be conducted in this conference, I have confidence that we will all benefit from the legal analysis so much so that we will not only identify and rise to the challenges, but will convert them into opportunities.

18. Hong Kong, as Asia's World City, prides itself in our mission to connect and excel. This conference will further Hong Kong's policy to be an international legal hub and dispute resolution centre.

19. Ladies and Gentlemen, Hong Kong would continue to play an instrumental role as a springboard for the Hague Conference to further develop its work and extend its influence in the region. With a view to enhancing the harmonization of private international law in this region and beyond, to promoting the rule of law at an international level and to the furtherance of

peaceful co-existence, we will strive to give full support to the Hague Conference's work through the Asia Pacific Regional Office.

20. On this note, may I wish the global conference every success, and for those coming from overseas, an enjoyable stay in Hong Kong.

Thank you.