

HK Legal bodies should act in genuine interest of our practitioners

(by Secretary for Justice, Ms Teresa Cheng, SC)

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Amid the pandemic, meticulous arrangements were made by the central authorities for a visit by a delegation of the Hong Kong Special Administrative Region's Department of Justice to Beijing. During the three days there, we paid visits to eight ministries and authorities as well as the Asian Infrastructure Investment Bank, signed two records of meetings with the Supreme People's Court and the Supreme People's Procuratorate respectively, a framework arrangement with the Ministry of Justice and a memorandum of cooperation with the State-owned Assets Supervision and Administration Commission of the State Council and the Ministry of Commerce. We have had the most meaningful and constructive discussions with our counterparts as well as exchanges with senior Central People's Government officials including the chief justice, procurator-general, ministers and deputy ministers on the developments in Hong Kong and the Guangdong-Hong

Kong-Macao Greater Bay Area, in particular our legal system and the rule of law.

It has been two years since the last official visit of a DOJ delegation to Beijing, during which many innovative and unique arrangements between Hong Kong and the Chinese mainland have been put in place providing immense opportunities for the legal sector. For instance, the arrangement for interim measures obtained from the mainland courts for parties to arbitrations in Hong Kong has reinforced and enhanced Hong Kong's position as an international arbitration center. Since its implementation in October 2019, about 50 applications have been made through which over 10 billion yuan (\$1.5 billion) worth of assets has been secured in aid of arbitrations in Hong Kong. The framework for mutual recognition of and assistance to insolvency proceedings which includes debt restructuring were set out in a record of meeting in May. This will provide protection for creditors thereby enhancing the environment for commerce and investment. Hong Kong is the only jurisdiction outside the mainland that enjoys immense benefits from these two unique

instruments.

Of the four instruments that were signed during our visit in July, the tripartite memorandum of cooperation is worthy of note. This establishes an exchange platform in the form of roundtable discussions among members of the DOJ's Standing Panel of Legal Experts and representatives of State-owned enterprises and major private enterprises on the mainland. We hope that this will provide a channel of communication by which the legal experts from Hong Kong can meet directly and discuss in depth with these enterprises, thereby exporting our legal services in aid of their trade and investment abroad. As to the cooperation with the SPC under the record of meeting, an event has already been organized this week, providing a training course in the form of a webinar for around 800 lawyers and practitioners on the procedural and substantive considerations in applications before mainland courts for interim measures in aid of Hong Kong arbitrations.

The legal profession in Hong Kong is the first that has

been given the opportunity to obtain a special qualification for the practice of PRC law in the Greater Bay Area. Thanks to the great efforts by the Justice Ministry, a training course, a special qualification exam and an examination center outside the mainland here in Hong Kong have been made possible. Once the results are out, those eligible for practicing certificate in the Greater Bay Area will also be receiving practical training from the mainland courts, again made possible by the record of meeting signed in July with the SPC.

For all these and other measures put in place specifically for the legal sector in Hong Kong, we are truly indebted. The arrangements could not have been achieved without the trust placed by the CPG on Hong Kong as well as our legal sector. The continuous implementation of the measures can only be guaranteed if we are not acting in defiance of the interest of Hong Kong and our motherland.

Yet what impressed us most during the visit was the warmth by which we were received and the genuine care and concern the senior CPG officials expressed for Hong

Kong and our rule of law. They were appreciative and pleased to learn of Hong Kong's restoration to law and order and the return to a rational, inclusive and stable society. The sincerity by which we were encouraged to uphold the rule of law in discharge of our duties to ensure the stability and prosperity of Hong Kong is most inspiring.

Indeed, the determination of the central authorities to implement the "one country, two systems" policy is loud and clear. The statement supporting the capitalist system underpinned by the common law has reinforced our confidence. I believe any suggestion that the common law should not be applied in Hong Kong will be met with strong criticism or questions. So long as the "one country" basis is observed and the stability in Hong Kong is maintained, we can be confident that the common law and our legal system are here to stay.

The future lies in our own hands. Whether to seize the opportunities that have been afforded to us and to ensure that the Hong Kong common law system continues to

thrive, we must act wisely. The two professional bodies have been in place for nearly a century. They should live up to the expectations of the legal sector by acting in the genuine interest of the practitioners in Hong Kong. How we are to move forward will depend on the choices we make.

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