

Speech by SJ at the 2022 CISG Conference - The CISG, 40 Years and Beyond: What the Past Will Bring to the Future & Opening Ceremony of 19th Willem C. Vis (East) International Commercial Arbitration Moot (English only)

Ladies and gentlemen,

1. On behalf of the Government of the Hong Kong Special Administrative Region (“SAR”) and the Department of Justice (“DoJ”), it is my great pleasure to welcome you all to the 2022 CISG Conference (“Conference”) and the 19th Annual Willem C. Vis East International Commercial Arbitration Moot (“Moot”), or the 3rd “Virtual Vis East”, as it has come to be known.

Use of LawTech

2. The COVID-19 pandemic has driven communities to embrace modern technology and the legal sector is no exception. Since the first move to hold the Virtual Vis East online in 2020, teams and arbitrators worldwide have been able to still take part in this annual event notwithstanding the

pandemic. This has been made possible only with the support of the eBRAM International Online Dispute Resolution Centre (eBRAM Centre)¹ and its online platform, which provides an efficient, cost-effective and secure platform for online deal-making and dispute resolution for global businesses, investment and trade.

3. The eBRAM platform not only facilitates dispute resolution for global businesses, investment and trade, it also provides a valuable opportunity for businesses as a deal-making platform for international transactions. Furthermore, eBRAM has been actively participating in the development of the APEC Collaborative Framework for ODR, spearheaded by the Economic Committee of APEC, to help businesses, especially micro, small and medium-sized enterprises (MSMEs), to overcome geographical and language barriers with its one-stop service for e-negotiation, e-mediation and e-arbitration, with a view to reducing time and cost for MSMEs.

¹ eBRAM Centre is a not-for-profit organisation established in 2018, formed by prominent legal and arbitration practitioners and experts from IT and accounting fields. Its vision is to provide a one-stop speedy and cost-effective online dispute resolution and LawTech service for cross-border deal-making, dispute avoidance and dispute resolution. (See <https://www.ebram.org/overview.html>)

4. Hong Kong's determination to develop LawTech continues. At its 54th Session in July 2021, UNCITRAL endorsed the suggestion of its Secretariat to continue to collaborate with the Department of Justice Project Office for Collaboration with UNCITRAL, which was set up in the Hong Kong Legal Hub in 2020, to take part in the Inclusive Global Legal Innovation Platform on Online Dispute Resolution (iGLIP on ODR)². We hope that, through projects with UNCITRAL, we will be able to cooperate in promoting, raising awareness and providing bespoke capacity building for online dispute resolution.

The CISG - 40 years and beyond

5. The topic of this year's Conference is "The CISG, 40 Years and Beyond: What the Past Will Bring to the Future". The CISG, which celebrated its 40th anniversary in 2020, has been described as "the most successful substantive uniform commercial law treaty"³. Since its adoption in 1980 and entry into force in 1988 for the original 11 ratifying states, including

² See:

https://www.doj.gov.hk/en/legal_dispute/online_dispute_resolution_and_lawtech.html.

³ As commented by the Secretary of the United Nations Commission on International Trade Law, Ms Anna Joubin-Bret, at the 4th UNCITRAL Asia Pacific Judicial Summit in Hong Kong Legal Week 2021.

China, there are now 94 Contracting States from different legal traditions and at various levels of economic development. They represent over two-thirds of the global economy, and cover more than half of Hong Kong's top 20 trading partners in 2021⁴. It is notable that about 45% of the countries and regions participating in the Belt and Road Initiative are also contracting parties to the CISG.

6. The CISG provides a modern, uniform and fair regime for contracts for the international sale of goods, providing more certainty and predictability, particularly on the issue of applicable law for the sales contract. It has played a pivotal role in promoting and facilitating the global development of international trade.

7. This year's Conference is held in a historic year of Hong Kong legal history. The National 14th Five-Year Plan supports Hong Kong to enhance its status as an international trade centre and a centre for international legal and dispute resolution services in the Asia-Pacific region. In line with this important objective, the Sale of Goods (United Nations Convention) Ordinance was enacted last September to enable

⁴ See: https://www.tid.gov.hk/english/trade_relations/mainland/trade.html.

the implementation of the CISG in the local law of the Hong Kong SAR, marking an important development of our law on international sale of goods. The CISG is expected to be applied to the Hong Kong SAR with effect later this year, after completion of the relevant constitutional and treaty processes, including the formal notification by the Central People's Government to the Secretary-General of the United Nations, as depositary for the CISG.

International hub for trade and dispute resolution

8. According to Global Trade Update of the United Nations Conference on Trade and Development, global trade reached a record high last year - an increase of almost 13 per cent relative to pre-pandemic levels⁵. Regarding merchandise growth in 2021, the World Trade Organization (“WTO”) has reported that Asia’s merchandise export and import values grew more comparative to other regions over the last two years⁶, with Hong Kong ranking the 6th in exports and 8th in imports in world

⁵ UNCTAD, ‘Global Trade Update’ (February 2022) (available at: https://unctad.org/system/files/official-document/ditcinf2022d1_en.pdf) p.1.

⁶ World Trade Organization, ‘World Trade Statistical Review 2021’ (available at: https://www.wto.org/english/res_e/statis_e/wts2021_e/wts2021chapter03_e.pdf) p. 37.

merchandise trade in 2020 according to the WTO's Trade Profiles 2021⁷. International trade will continue to be the engine of growth in the pandemic recovery.

9. To thrive in this international trade environment, global economies must stay connected with the world. The CISG would no doubt continue to make valuable contributions in this respect. Moreover, the application of the CISG to the Hong Kong SAR would enhance its legal infrastructure for international sale of goods and further its reputation as an international hub for trade and dispute resolution. It will also allow this renowned common law jurisdiction to contribute, operating under China's unique policy of "one country, two systems", to the future of the CISG through usage by its businesses and development of jurisprudence in the Asia-Pacific region.

Closing remarks

10. I would like to congratulate and express my heartfelt gratitude to the Vis

⁷ World Trade Organization, 'Trade Profiles 2021' (available at: https://www.wto.org/english/res_e/booksp_e/trade_profiles21_e.pdf) p. 164.

East Moot Foundation for its tremendous efforts for holding the 19th Vis East Moot in Hong Kong. The Moot is an annual highlight for students and arbitrators worldwide. The Foundation has spared no effort in organizing the Moot over the years to promote the use of international commercial arbitration to resolve international commercial disputes and to nurture future legal talents, and amongst them new generations of lawyers and arbitrators conversant with the CISG. In view of the above, Hong Kong would continue to welcome the opportunities and appreciate the honour of hosting the Moot in the coming years.

11. My heartfelt thanks also go to all speakers at this Conference. Your insights on the CISG, its development as well as contemporary issues on this topic are invaluable for us.

12. On this note, I wish you all a fruitful Conference and a successful Moot. I look forward to welcoming you all to Hong Kong in person, mask free, in the near future. Thank you.