

Speech by SJ at Mediation Conference 2022 (English only)(with photo)

Following is the opening remarks by the Secretary for Justice, Ms Teresa Cheng, SC, at the Mediation Conference 2022 under Mediation Week 2022 today (May 6):

Good morning. Distinguished guests, ladies and gentlemen, welcome to the Mediation Conference 2022. We are pleased to host our biennial Mediation Conference during the Mediation Week 2022 with different thematic events on family, medical, peer mediation and more spanning across the first full week of May. May I begin with a note of thanks to our co-organiser, the Hong Kong Trade Development Council, and our supporting organisations for their staunch support to our work on promoting mediation over the years.

We are very privileged to be hosting our Conference this year as one of the enhanced celebration events for the 25th anniversary of the establishment of the Hong Kong Special Administrative Region. The theme of the Mediation Week 2022, "Mediate First - Harmony from Now to Beyond", encapsulates our philosophy of mediation. Harmony embraces changes and differences between people. It bonds us together as a nation. And mediation is the effective tool that paves our way to harmony - one of the essences in our Chinese culture. At this significant juncture of returning to our motherland for a quarter of a century, this Conference provides an excellent opportunity for us to appraise what we have achieved in mediation and explore our way forward in the innovation-driven era of new technologies and associated challenges.

The Mediation Week 2022 began with our young masters of the future who demonstrated their passion and understanding on the use of mediation at the 5th Hong Kong Secondary School Peer Mediation Competition Final. I am pleased to hear from these brilliant young minds that mediation skills such as reframing issues is helping them and their peers to build a positive mindset and harmonious relationships in and outside schools.

Throughout the Mediation Week, our renowned speakers have canvassed on topical issues relating to how mediation can help to achieve harmony across a broad spectrum such as peer and school, matrimonial and family, medical, small claims and investor-state disputes. The promotion on wider use of mediation as an effective and versatile tool for dispute resolution will benefit all walks of life and strengthens our

rule of law by helping the public to gain access to justice at a lower cost with greater chance of preserving ongoing relationships.

It is no secret that Hong Kong has always enjoyed the unique status of being the only common law jurisdiction within China and all the privileges coming from the unprecedented characteristic of "one country, two systems and three jurisdictions" in the Greater Bay Area (GBA). What is pivotal is how we can fully capitalise on Hong Kong's distinctive advantages and potentials amidst the rapid bloom of the GBA and make good use of its indispensable role that Hong Kong has under the Outline Development Plan for the GBA.

With the joint effort of the Guangdong, Macao and Hong Kong legal departments at the GBA Mediation Platform, the GBA Mediator Accreditation Standards and the GBA Mediator Code of Conduct Best Practice have been endorsed at the third Joint Conference and have come into effect on December 30, 2021.

The promulgation of the unified accreditation standards and code of conduct best practice for mediators in the GBA is a major milestone in Hong Kong's integration into the GBA development. It will also foster the professional development of the mediators in the GBA, thereby enhancing the confidence of mediation users within the GBA and the development of GBA mediation services towards standardisation and professionalism.

To take forward our commitment of bridging the connectivity of the legal interface and facilitating the harmonisation of laws and dispute resolution frameworks in the GBA, consolidated effort is being taken in devising guiding principles for the mediation rules in the GBA.

Having this guidance and reference in place, coupled with the increasing demand for mediation services in the GBA vis-à-vis the closer interaction and economic co-operation between Hong Kong and the Mainland, it is perhaps high time for us to consider whether we can pursue reciprocal recognition and enforcement of mediated settlement agreement in the GBA.

The United Nations Convention on International Settlement Agreements Resulting from Mediation, or otherwise known as the Singapore Convention, has entered into force on September 12, 2020. Although China is a signatory to the Convention, it is not applicable to the cross-boundary mediated settlement agreements

within the GBA for the obvious reason that this international Convention is not applicable to the enforcement of cross-boundary mediated settlement agreements within China.

It is crucial for us therefore to devise an effective enforcement mechanism that suits our need in the GBA. Although the Convention may provide us with guidance and reference, the definition of mediated settlement agreement under the Convention is not exactly in line with that under the mediation framework in the Mainland. The Convention also lacks the reciprocity requirement like the New York Convention. And therefore modelling on the mechanism of reciprocal recognition and enforcement of judgments in family cases as was implemented under the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance (Cap. 639) that came into operation on February 15 this year, that may actually be a better option for us.

The Joint Conference of the GBA legal departments will be a perfect platform to explore the feasibility of establishing a pilot scheme for the implementation of reciprocal recognition and enforcement of mediated settlement agreements within the GBA, and maybe starting with family mediation settlement agreements. We look forward to exchanging views on this idea with our Guangdong and Macao counterparts.

Against this background and the reciprocal recognition and enforcement of judgments mechanism in family cases, we are very honoured to have invited my very good friend Professor Liu Jingdong (Director of the International Economic Law Department at the Institute of International Law of the Chinese Academy of Social Sciences) to deliver a keynote speech on the subject and related issues. Furthermore, our speakers in Panel Session 1 today are going to share their insights on the potential of and the need for reciprocal recognition and enforcement of family mediated settlement agreements in the GBA in light of the new Ordinance for judgments and the increasing demand for cross-border family mediation services.

In the midst of the global pandemic, mediation takes on a new dimension in the rise of online dispute resolution (ODR). The synergy of mediation and ODR amplifies the flexibility in mediation and adaptability in ODR, and shall continue to flourish in the era of transformation in the legal and dispute resolution services. You will hear from our speakers on Panel 2 on how the latest lawtech and ODR under the "Digital New Normal" is providing us with greater cybersecurity, flexibility and convenience

to mediation users.

We strive to meet every new challenge coming from the pandemic on planet earth to the metaverse in the virtual world with our state-of-the-art lawtech. Blockchains, cryptocurrencies, non-fungible tokens (NFTs), and initial coin offerings are all sorts of novelties and symbols of innovations and technology breakthroughs. Everyone can be an artist and art collector now by creating and trading their own NFT art in static and dynamic images, music, videos and more. But have we looked deep enough to understand how the metaverse runs, the potential legal issues and risks in these digital transactions? To unveil the mystery of the metaverse, we are very lucky to hear from the experts, Mr Yat Siu (Co-founder and Chairman of Animoca Brands and Founder and CEO of Outblaze) and other speakers from Panel Session 3 on what exactly these virtual and crypto assets are, how they can be traded or exchanged, what are the potential pitfalls in the metaverse and, importantly, how mediation may come to our rescue.

I hope we can exchange more ideas at today's Conference on how we can excel together in this journey of yielding further high-quality development in Hong Kong, the GBA and beyond. To this end, we shall continue to keep abreast of the latest developments in the global dispute resolution arena and invest in our legal infrastructure and talents to tackle the rising challenges in connecting Hong Kong with the other cities within the GBA and of course to the world.

Ladies and gentlemen, may I close by thanking you all for your participation and support throughout the Mediation Week 2022, and wishing you all a very enjoyable and fruitful discussion today. Thank you very much.

Ends/Friday, May 6, 2022