

Speech by SJ at HCCH Conventions Supporting Transnational Litigation in Civil or Commercial Matters: A Workshop to celebrate the Tenth Anniversary of the Regional Office for Asia and the Pacific under Hong Kong Legal Week 2022 (English only) (with photos/video)

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Following is the welcoming remarks by the Secretary for Justice, Mr Paul Lam, SC, at the HCCH Conventions Supporting Transnational Litigation in Civil or Commercial Matters: A Workshop to celebrate the Tenth Anniversary of the Regional Office for Asia and the Pacific (ROAP) under Hong Kong Legal Week 2022 today (November 8):

Commissioner Liu (Commissioner of the Ministry of Foreign Affairs in the Hong Kong Special Administrative Region, Mr Liu Guangyuan), Dr Bernasconi (Secretary General of the Hague Conference on Private International Law, Dr Christophe Bernasconi), Professor Zhao (Representative of ROAP of the HCCH, Professor Zhao Yun), Consuls General, distinguished guests, ladies and gentlemen,

It is my pleasure to welcome you all to this Workshop in celebration of the 10th Anniversary of the Hague Conference on Private International Law (HCCH) Regional Office for Asia and the Pacific in Hong Kong.

What makes this occasion even more special is that this year 2022 marks the 25th anniversary of the establishment of Hong Kong Special Administrative Region (HKSAR), which we are celebrating throughout Hong Kong Legal Week. I hope you will all enjoy the wonderful events that we have organised for you.

#### (I) Long-Standing Partnership

HCCH has been our long-standing partner for the past 25 years. With the strong support of our Central People's Government (CPG), HKSAR has been participating actively, as part of the Chinese delegation, in the work of HCCH since 1997. This is made possible by Article 152 of the Basic Law, which provides that representatives of the Government of HKSAR may, as members of delegation of China, participate in international organisations or conferences in appropriate fields limited to states in usual circumstances. In fact, a colleague from the DoJ (Department of Justice), as a delegate from China, was also elected as the chair of a Special Commission and a Working Group in relation to the Apostille Convention some years ago. Our

participation in HCCH is one of the best illustrations of the successful implementation of the principle of "one country, two systems" in the past 25 years.

In addition to the regular participation in the meetings of HCCH, the memorandum of understanding for the technical arrangements relating to the secondment of legal professionals between HCCH and HKSAR in 2020 further cements our partnership. Through the secondment programme, our local legal talent will be able to broaden their horizons through learning from international legal experts, and inject a Hong Kong perspective in shaping the development of international law. Our sincere gratitude goes to the CPG for their staunch support in all these initiatives.

## (II) REJ Arrangement

The strong support by the CPG for our legal system was also reiterated by President Xi, in his speech delivered on July 1 this year which marked the 25th anniversary of the establishment of HKSAR. He made it crystal clear that the principle of "one country, two systems" is a long-term policy that must be adhered to in the long run. He also expressed support for the maintenance of the common law in the HKSAR. This means that the HKSAR will continue to be a common law jurisdiction and the only common law jurisdiction in China.

Despite the differences in the legal systems between the HKSAR and the Mainland, the two jurisdictions have developed various mutual legal assistance arrangements, some of which are in fact modelled on the Hague Conventions, such as the Hague Service Convention, the Hague Evidence Convention and the Hague Choice of Court Convention, which are all exemplary models for bridging different legal systems.

Most recently, we have drawn references from the Hague Judgments Convention in formulating our arrangement with the Mainland on reciprocal recognition and enforcement of judgments (REJ Arrangement). Our colleagues handling the REJ project took part in the Special Commission meetings and the Diplomatic Session relating to the HCCH Judgments Project and gained very useful insights from there.

The REJ Arrangement and its implementing legislation, namely the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance provides a straightforward registration mechanism for the enforcement of Mainland

judgments in Hong Kong with sufficient safeguards reflecting the existing common law principles and also the international standards. They will better protect parties' interest, and enhance certainty and predictability of the cross-boundary enforceability of the relevant applicable judgments. It will in turn improve the environment for cross-boundary trade and investment, and enhance our competitiveness as a regional legal and dispute resolution services centre.

Taking into account the practical needs and circumstances of Hong Kong and the Mainland, and fully utilising the unique strengths of "one country, two systems", we have gone even further than the Hague Judgments Convention by covering a wider range of judgments on contractual and tortious disputes, including judgments given in respect of certain types of intellectual property rights. This is a strong testimony to the vitality and unique advantages of "one country, two systems".

### (III) Asia and the Pacific Vision

Ladies and gentlemen, we now live in a very interconnected world where the work of HCCH is even more relevant than ever. Our globalised economy, with multiplying cross-border transactions and rapid mobility of people as its hallmarks, demands a well-developed and harmonised private international law regime. As an Asian metropolis accommodating worldwide talent, trade and capital, the HKSAR shares HCCH's vision in the development and promotion of private international law, which contributes to the global common good.

In this connection, I must mention the focus of our celebration today, ROAP, HCCH's only regional office in the Asia-Pacific Region, which has been established in the HKSAR since 2012. With its strategic geographical position in Asia and the Pacific, Hong Kong is well positioned to connect with the rest of the world, and is a major gateway to Mainland China. It is our honour to host ROAP which is housed in the Hong Kong Legal Hub at the heart of our city. ROAP forges a perfect synergy with Hong Kong in raising the visibility and profile of HCCH, and promoting HCCH Conventions in the region.

I must commend the outstanding contribution by the Representative of ROAP in the past 10 years, in particular, the current Representative, Professor Zhao Yun, who has overcome the many challenges and disruptions caused by the pandemic in order to advance the work of ROAP over the past few years.

For instance, my department worked with ROAP to strengthen collaboration with regional organisations, including the Asia-Pacific Economic Cooperation (APEC), by renewing the accredited guest status of HCCH under the APEC Economic Committee, in order to promote awareness and use of private international law instruments by APEC economies.

In addition to the collaboration under APEC, the HKSAR Government has started the process to join the Regional Comprehensive Economic Partnership (RCEP), the world's largest free trade area which commenced on January 1, 2022. A robust private international law regime will undoubtedly facilitate the envisaged growth in the region. I am very confident that we are ready to set sail together to the promising future in the Asia Pacific and under the Belt and Road Initiative.

As the leading centre for international legal and dispute resolution services in the Asia-Pacific region, Hong Kong is very privileged to host this Workshop. We are privileged to have invited eminent speakers to this Workshop to discuss how the Hague Conventions facilitate the full lifecycle of transnational litigation, from jurisdictional and choice of court issues, service of process, taking of evidence, document authentication, to recognition and enforcement of foreign judgments, which all contribute to effective access to justice, cross-border co-operation, and development in Asia and the Pacific region.

This Workshop is part of ROAP's admirable endeavours made possible with the aid of technology, the resilience of our city, and above all, your and of course the CPG's staunch support. We will also continue to give our full backing to HCCH's work, notably through ROAP, in the progressive unification of the rules of private international law.

On this note, may I wish this Workshop every success. Thank you very much.

Ends/Tuesday, November 8, 2022