

Speech by SJ at Workshop on ASEAN Online Dispute Resolution: ODR in Facilitating Cross-Border Trade and Investment for ASEAN and Hong Kong Businesses under Hong Kong Legal Week 2022 (English only) (with photo/video)

Following is the opening remarks by the Secretary for Justice, Mr Paul Lam, SC, at the Workshop on ASEAN Online Dispute Resolution: ODR in Facilitating Cross-Border Trade and Investment for ASEAN and Hong Kong Businesses under Hong Kong Legal Week 2022 today (November 9):

Professor Tirado (Secretary-General of the International Institute for the Unification of Private Law, Professor Ignacio Tirado), Consuls General, distinguished guests, ladies and gentlemen,

Good morning. It gives me great pleasure to welcome all of you on behalf of the Government of the Hong Kong Special Administrative Region, in particular the Department of Justice, to the Workshop on Online Dispute Resolution (ODR) today.

Building on the success of Phase 1 of the ASEAN (Association of Southeast Asian Nations) Workshop on ODR last year, we are organising Phase 2 of the Workshop this year with the theme "ODR in Facilitating Cross-Border Trade and Investment for ASEAN and Hong Kong Businesses". With the relaxation of travel restrictions in Hong Kong, we are glad that we have representatives from ASEAN member states, the ASEAN Secretariat and guests joining us physically in Hong Kong today.

Growth of trade between ASEAN and Hong Kong

ASEAN has been one of the major trading partners of Hong Kong. Since the ASEAN-Hong Kong, China Free Trade Agreement and related Investment Agreement has fully entered into force in February last year, the already very close economic co-operation between us has been further strengthened. In 2021, ASEAN was Hong Kong's second largest trading partner. Despite the pandemic, merchandise trade between Hong Kong and ASEAN last year increased by 21 per cent, reaching a total value of HK\$1,247 billion. Besides, ASEAN was Hong Kong's second-largest supplier of goods last year. About 17 per cent of Hong Kong's total imports, more than HK\$900 billion, were sourced from ASEAN. In investment, ASEAN ranked fourth among Hong Kong destinations for outward direct investment, and sixth in inward

direct investment at the end of 2020. In particular, over the past few years, e-commerce has expanded remarkably, both within and across the border. The rapid growth of e-commerce have given micro, small and medium enterprises (MSMEs) plenty of opportunities to expand their business. It is foreseeable that e-commerce and the digital economy will continue to grow and play an important role in the post-pandemic recovery and regional integration.

Importance of ODR for businesses

With the increase in cross-border trade and investment, it is inevitable that disputes may arise from time to time. In particular, the disruption of the global supply chain caused by the pandemic has given rise to quite a number of cross-border disputes in the past couple of years. An effective means of dispute resolution has become more crucial than ever for cross-border trade and investment. When we are on a steady track to recovery from the pandemic, disputes arising from supply chain disruption continue to linger and daunt businesses, especially the MSMEs. In ASEAN, there are about 70 million MSMEs, accounting for over 97 per cent of total establishments in ASEAN member states. In order to maintain good cash flow, MSMEs are in desperate need of speedy and cost-efficient means to resolve their disputes. Meanwhile, there has also been an increasing demand for effective mechanisms to resolve disputes involving online cross-border transactions. Owing to the unique nature of these cross-border disputes, it is not geographically or financially feasible or practicable for MSMEs to have these disputes resolved through traditional court litigations or in-person alternative dispute resolution mechanisms.

With the help of information and communications technology (ICT), online dispute resolution provides a cost-effective and efficient solution to cross-border disputes. As noted in the UNCITRAL (United Nations Commission on International Trade Law) Technical Notes on ODR, ODR "can assist the parties in resolving the dispute in a simple, fast, flexible and secure manner, without the need for physical presence at a meeting or hearing." Through ODR, individuals and MSMEs can utilise technologies in a full spectrum of dispute resolution services conveniently and expeditiously, enhancing their accessibility to justice. With the quick electronic resolution and enforcement of disputes across borders, bridging barriers of different languages and legal jurisdictions, ODR can also provide more confidence for MSMEs to engage in cross-border transactions. Furthermore, by saving MSMEs' time and resources in resolving disputes, they can focus on exploring new business opportunities and expanding their markets. And therefore, ODR is conducive to

regional economic growth and development in general.

Recent developments of ODR in Asia Pacific

In recent times, ODR has been widely used in various contexts and promoted regionally and internationally. We can see businesses using ODR as part of their customer services to handle complaints. Courts from different jurisdictions are also exploring how to implement ODR as part of the judicial process to further enhance access to justice. This year, the Asia-Pacific Economic Cooperation (APEC) launched the APEC Collaborative Framework for ODR of Cross-Border Business-to-Business Disputes (APEC ODR Framework) and a number of ODR service providers have already been listed under this Framework.

In addition to the development under APEC, the ASEAN Committee on Consumer Protection launched the ASEAN Guidelines on ODR in April this year as one of the deliverables of the ASEAN Strategic Action Plan on Consumer Protection 2025. The ASEAN Guidelines aim to assist ASEAN member states in setting-up or improving their national ODR systems to help resolve e-commerce transactions, as well as suggest proper design and management of an ODR system. With regional and international collaborations, as well as the joint efforts across the governmental sector, the business sector, the dispute resolution sector and ICT sector, ODR is developing rapidly.

Hong Kong and ODR

In light of all these developments, Hong Kong has been taking active steps to promote and contribute to the development of ODR in this region and beyond. Hong Kong, China, has opted into the APEC ODR Framework since 2020. The eBRAM Centre in Hong Kong is one of the listed ODR service providers under the APEC ODR Framework, providing comprehensive ODR services equipped with advanced technologies. The Department of Justice has also launched the Inclusive Global Legal Innovation Platform on ODR in collaboration with the United Nations Commission on International Trade Law to keep track of international developments of ODR and study various issues on the same. Besides, under the auspices of the Asian-African Legal Consultative Organization (AALCO) and with the support from the Central People's Government, the AALCO Hong Kong Regional Arbitration Centre was officially opened in May this year. A specific mandate for this AALCO Hong Kong Regional Arbitration Centre is to promote the growth and effective functioning of

arbitration and other dispute resolution services, including, of course, ODR.

All these developments have highlighted the role of Hong Kong in the international development of ODR and the readiness of Hong Kong and our professionals in offering ODR services for ASEAN and Hong Kong businesses which require an efficient and inexpensive means to resolve their disputes by ODR as well as for those in need of capacity building for ODR.

We look forward to collaborating further with ASEAN on our economic and technical co-operation, particularly in strengthening the ODR capabilities in this region and beyond.

Last but not the least, I must thank the ASEAN Secretariat for their continued support. I hope all of you would enjoy the Workshop today with meaningful and insightful presentations and discussions. Thank you very much.

Photo

The Secretary for Justice, Mr Paul Lam, SC, speaks at the Workshop on ASEAN Online Dispute Resolution: ODR in Facilitating Cross-Border Trade and Investment for ASEAN and Hong Kong Businesses under Hong Kong Legal Week 2022 today (November 9).

Audio / Video

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View

Ends/Wednesday, November 9, 2022