

Speech by SJ at Law Society of Hong Kong's 5th Belt and Road Conference under
Hong Kong Legal Week 2022 (English only) (with photo/video)

Following is the opening address by the Secretary for Justice, Mr Paul Lam, SC, at the Law Society of Hong Kong's 5th Belt and Road Conference: Metaverse and Money on the Belt and Road under Hong Kong Legal Week 2022 today (November 10):

Mr President C M Chan (President of the Law Society of Hong Kong), Deputy Commissioner Fang (Deputy Commissioner of the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region (HKSAR), Mr Fang Jianming), distinguished guests, ladies and gentlemen,

It gives me great pleasure to join you all here today. Firstly, I must thank the Law Society of Hong Kong for their support to Hong Kong Legal Week and for organising this Belt and Road Conference. The Belt and Road Initiative (BRI) leads the world to common development, bringing immense opportunities and progress to the global community. Since its inception, the BRI has been joined by over 140 countries and 30 international organisations, serving as the largest platform for international co-operation.

From 2013 to 2021, the total volume of trade of goods between China and other Belt and Road countries was nearly \$11 trillion, while two-way investment exceeded \$230 billion. Annual trade volume between China and other countries along the Belt and Road expanded 73 per cent from US\$1.04 trillion to US\$1.8 trillion, and new infrastructure contracts valued at US\$1.08 trillion were entered during the same period.

Innovation is always at the heart of the BRI. Latest technologies, like the metaverse, blockchain and the digital currencies have strong potential for use in the BRI. China is at the forefront in encouraging the use of technologies in this respect. In his speech in November 2020, President Xi called on the support for a "Digital Silk Road" and to promote digital connectivity, while at the same time he pledged to further deepen co-operation and promotion in this regard.

A robust legal and regulatory framework is imperative

However, the emergence of new technologies are associated with risks. For instance, the use of blockchain technology, crypto and digital currencies, might give rise to risks such as money laundering and even terrorist financing. A robust legal and regulatory framework is therefore imperative for the healthy and sustainable development of these technologies in the Belt and Road context. I believe the panel discussion later this morning will generate further insights to the further discussions which I understand took place in the Mediation Conference 2022 held earlier in May, where the possible legal issues and pitfalls brought by novelties like the metaverse and cryptocurrency and the role of mediation in resolving related disputes had been actively considered. I look forward to the insightful discussions on the necessary legal reforms and developments in the metaverse and digital space, as well as the impact of cybercrime, defamation and misinformation.

The development of a digital economy within the Belt and Road will assist cross-border payments, thereby facilitating trade and investment. Our nation itself has already comprehensively developed a sophisticated "cashless" economy, with the two leading cashless platforms having a total of about 2.1 billion users. China is also actively implementing a blockchain-based digital universal currency via the BRI. I therefore look forward to the two dedicated sessions after lunch discussing the feasibility of establishing new "global currency" and digital assets to facilitate international trade.

Taking this opportunity, I would like to share with you Hong Kong's experience, as well as its unique edge in serving as a leading international legal hub for legal, deal-making and dispute resolution services.

Innovation as a key to Hong Kong's success

Being at the forefront of transiting into a digital economy, the Hong Kong Monetary Authority is engaging in three Central Bank Digital Currency-related projects: the digital yuan, the m-CBDC Bridge project and the electronic Hong Kong dollar at present. Hong Kong's latest initiatives in digital currencies will further strengthen Hong Kong's leading role as a premier deal-making hub, providing more flexibilities to international investors and traders.

The use of legal technology, or lawtech in short, provides more efficient and cost-effective ways to resolve disputes, which in turn further enhances access to justice.

Hong Kong's development of lawtech has been internationally recognised. In April 2020, Hong Kong opted into the APEC (Asia-Pacific Economic Cooperation) Collaborative Framework for Online Dispute Resolution (ODR) of Cross-Border Business-to-Business Disputes, which promotes the use of online negotiation, mediation and arbitration by micro, small and medium enterprises in resolving business-to-business disputes. The eBRAM Centre, an indigenous online dispute resolution services provider, has launched the APEC Online Dispute Resolution procedural rules tailor-made for the Framework last year. In May this year, eBRAM was listed as the first and only ODR (online dispute resolution) service provider from Hong Kong under the APEC ODR Framework. On October 24 this year, quite recently, eBRAM has officially launched its online arbitration and online mediation platforms. eBRAM also plans to introduce an online deal-making platform towards the end of this year. All these significant achievements show Hong Kong's devotion to the development of lawtech for the betterment of the Asia Pacific region and beyond.

For the local community, the Government supports the legal and dispute resolution sector to make use of the online platform to enhance their services and operation. To this end, the Department of Justice (DoJ) provided funding support under the Anti-epidemic Fund for eligible local legal and dispute resolution service providers to subscribe to the "Hong Kong Legal Cloud" which is also launched by eBRAM. The Legal Cloud is equipped with advanced information security technology to provide safe, secure and affordable data storage services with cloud servers hosted locally in Hong Kong.

We also take heed of the increasing risk associated with the use of digital assets and we strive to update our legal framework to address the ever-changing needs of the community and technological advancements.

Recently, amendments to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) were introduced, which specifically addressed the risks to investors and consumers, as well as risks of money laundering and terrorist financing associated with virtual assets. In this connection, a new licensing and regulatory requirement for virtual asset service providers' operations will be in place. It is expected that related provisions will come into effect in March 2023.

Looking forward, the DoJ will keep up with the pace and promote the use of lawtech. The DoJ has been committed to supporting and promoting the

development of an online dispute resolution service platform, enabling the public to gain access to justice at lower costs and with greater convenience. We will seek to implement and promote a standard online mediation platform for the Greater Bay Area (GBA) to provide Hong Kong and also Mainland residents with an online option for resolving cross-border disputes that is both time and cost-effective, thereby promoting the extensive use of mediation in the GBA.

"One country, two systems" as Hong Kong's bedrock of success

Hong Kong has always received the staunch support from the Central People's Government (CPG) and at the same time also benefitted by having a very close connection with the world market. President Xi recently stressed that the CPG fully supports Hong Kong to preserve our common law system and confirmed that the principle of "one country, two systems" must be adhered to in the long run. It is therefore clear that our common law legal system, as well as our highly regarded independent judiciary acclaimed by the international business community and foreign investors, will be continued in the long run.

Confidence placed by the international legal community

This year, we witnessed the establishment of the Asian-African Legal Consultative Organization (AALCO) Hong Kong Regional Arbitration Centre (AALCO HK Centre) in our Legal Hub. The AALCO HK Centre will act as a co-ordinating agency in the AALCO dispute settlement system, aiming to promote the growth and effective functioning of arbitration institutions and other alternative dispute resolution (ADR) services, as well as to promote the wider application of various ADR rules within the Asian and Pacific region, to provide facilities for ADR services, and to provide assistance in the enforcement of arbitral awards.

In our Legal Hub, there are a number of other international legal and dispute resolution organisations and institutions, for example, the Hague Conference on Private International Law Regional Office for Asia and the Pacific, the Chartered Institute of Arbitrators (East Asia Branch), etc. This demonstrates the confidence placed by the international legal and dispute resolution community in Hong Kong. We will continue to attract other international legal and dispute resolution institutions to establish their presence here.

More recently, it was announced that a preparatory office will be set up in the

HKSAR to commence work towards the establishment of the International Organization for Mediation, which will be an international inter-governmental organisation to provide friendly, flexible, economical and efficient mediation services for international disputes. This is pursuant to a joint statement jointly drafted and signed by the People's Republic of China and various foreign states. This again demonstrates the strong confidence of the international community towards the rule of law in Hong Kong, and the staunch support of the CPG for Hong Kong to become a leading centre for international legal and dispute resolution services.

Hong Kong - a world-class centre for legal and dispute resolution services

Hong Kong has a deep and diverse pool of legal and dispute resolution professionals, who are mostly multilingual with many of them legally qualified in multiple jurisdictions.

Hong Kong has been continuously ranked among the top five preferred seats for arbitration globally since 2015, while it was ranked the third most preferred seat for arbitration worldwide in the 2021 International Arbitration Survey released by Queen Mary University of London. The Arbitration Ordinance of Hong Kong is also modelled on the UNCITRAL (United Nations Commission on International Trade Law) Model Law, which is familiar to the international business community.

Hong Kong enjoys the unique advantage as the only jurisdiction outside the Mainland within our country where parties to arbitral proceedings would be able to apply to the Mainland courts for interim measures. No doubt, the availability and enforceability of interim measures reinforces Hong Kong's attractiveness as a choice of seat of arbitration.

Hong Kong is committed to improving its legal and dispute resolution regime continuously to cater for the diversified needs of different dispute resolution users. In response to the growing market demand for flexible funding options for arbitration, the Government has been bringing forth supportive measures to facilitate arbitration users. In 2019, we have amended the Arbitration Ordinance to clarify that third party funding of arbitration is allowed here. This year, we have introduced outcome related fee structures for arbitration (ORFSA) to provide potential arbitration users with additional funding options through diversified fee structures for arbitration.

The ORFSA fee arrangements may be entered between lawyers and clients that can best accommodate their financial and risk management needs. The ORFSA (Amendment) Ordinance 2022 lays the legal framework for the ORFSA, particularly by providing that certain agreements under this regime are not prohibited by the common law doctrines of maintenance or champerty. Subsidiary legislation will be enacted to provide a more detailed regulatory framework and safeguards in order to further protect the interests of arbitration users. Indeed, the Legislative Council has been briefed about the draft ORFSA Rules just this Monday. It is hopeful that the ORFSA regime will be fully implemented by the end of this year. With the ORFSA regime in place, Hong Kong will be in line with other major arbitral seats worldwide where similar fee arrangements are permissible.

Conclusion

In the recently concluded 20th National Congress of the Communist Party of China, President Xi reiterated China's commitment to accelerate a new development pattern pursuing high quality development, pledging the promotion of a high-standard opening up and high quality development of the BRI.

Hong Kong possesses distinct and unmatched advantages in the provision of legal and dispute resolution services to support the high quality and innovative development of the BRI. Undoubtedly, Hong Kong will continue to flourish as the prime platform for entrepreneurs, technical experts and practitioners to capitalise on the immense opportunities provided by the BRI.

Last but not the least, I look forward to the upcoming fruitful discussions and exchanges we will all hear today. Thank you very much.

Ends/Thursday, November 10, 2022