

Speech by SJ at eighth Belt and Road Summit (English only) (with photo)

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Following are the opening remarks by the Secretary for Justice, Mr Paul Lam, SC, at the thematic breakout session entitled "International Legal Cooperation" of the eighth Belt and Road Summit today (September 13):

Distinguished guests, ladies and gentlemen,

Good afternoon. It gives me great pleasure to welcome you all to this thematic breakout session entitled "International Legal Cooperation".

The Belt and Road Initiative was launched by President Xi 10 years ago in 2013. On November 10, 2019, President Xi sent a congratulatory letter to the China rule of law international forum (2019). He pointed out that the joint construction of the Belt and Road Initiative requires the protection of the rule of law; and China is willing to work with other countries to create a sound legal environment, establish a set of global economic and trade rules that are fair, reasonable and transparent, and promote high-quality development of the Belt and Road Initiative to better benefit people from various countries. He hoped that all countries would strengthen exchanges, build consensus and facilitate the development and improvement of relevant legal systems, so as to let the rule of law play a better role in the building of the Belt and Road Initiative.

Hong Kong plays a unique role in assisting the establishment of a sound international legal environment in the present context. This is because, under the principle of "one country, two systems", one of the distinctive status and advantages of Hong Kong is our common law system. Our common law system is familiar to the international community. The Hong Kong judiciary is independent and enjoys an excellent reputation around the world. Our legal talent can provide top-quality legal and dispute resolution services in different areas of civil and commercial law. Our legal professionals are not only familiar with international law and practice, they also have a very good understanding of the Chinese legal and business culture. Hong Kong is a leading centre for dispute resolutions by different means, including litigations, arbitrations, and mediations. All in all, Hong Kong's legal and judicial system are marked by their international characteristics, professionalism and reputation.

Hong Kong's unique advantage in this respect is safeguarded by various

provisions in the Basic Law under the principle of "one country, two systems". Among other things, Hong Kong shall exercise a high degree of autonomy and enjoy independent judicial power including that of final adjudication, the common law shall be maintained, the courts of Hong Kong may refer to precedents of other common law jurisdictions, and judges and other members of the judiciary may be recruited from other common law jurisdictions.

Vice Premier of the State Council of the People's Republic of China Mr Ding Xuexiang reiterated in his keynote speech at this morning's opening of the eighth Belt and Road Summit that the Central People's Government supports Hong Kong to maintain its common law system and to speed up its establishment as an international legal and dispute resolution services centre.

Pursuant to Articles 151 and 152 of the Basic Law, among other things, Hong Kong may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with relevant international organisations in the appropriate fields. One of the most important international organisations with which Hong Kong has built and developed a very close relationship is the Hague Conference on Private International Law (HCCH).

The HCCH is the leading world organisation for cross-border co-operation in civil and commercial matters. The HCCH has played a significant role in the Belt and Road Initiative by providing a platform for the development of uniform rules and harmonisation of private international law. The HCCH set up its Regional Office for Asia and the Pacific in Hong Kong in 2012. In fact, it is now holding the Asia Pacific Week 2023 in Hong Kong during which it will be celebrating its 130th anniversary. Today, it is our great honour to have Dr Bernasconi, the Secretary General of the HCCH, deliver a keynote speech in a moment.

Dr Anthony Neoh, SC, the Chairman of the Asian Academy of International Law (AAIL), will chair a panel discussions on international legal co-operation. The AAIL is an independent and non-profit-making body set up in Hong Kong to further the studies, research and development of international law in Asia. Dr Neoh is a most eminent member of the Hong Kong legal profession. Among other things, he was the Chief Advisor to the China Securities Regulatory Commission from November 1998 to June 2004 at the personal invitation of former Premier of the People's Republic of China, Mr Zhu Rongji.

It is often said that Hong Kong plays the role of "super-connector" between the Mainland and other countries. In the present context, it means that foreign parties cooperating with the Mainland parties on civil and commercial matters may effectively safeguard their interests by choosing Hong Kong law to govern their legal relationships and Hong Kong as the place to resolve any dispute whether by litigation, arbitration or mediation. Pursuant to Article 95 of the Basic Law, Hong Kong may maintain juridical relations with the judicial organs of other parts of our country, China, and may render assistance to each other. So far, nine arrangements on mutual legal assistance in civil and commercial matters have been signed between Hong Kong and the Mainland. How they may assist foreign parties can be illustrated by two examples.

First, the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters was signed in January 2019. The arrangement seeks to establish a comprehensive mechanism for reciprocal recognition and enforcement of judgments in civil and commercial matters between Hong Kong and the Mainland. Under this arrangement, almost all cross-boundary civil and commercial cases in Hong Kong and the Mainland will be covered. Hence, a judgment of the Hong Kong court in those cases can and will be recognised and enforced on the Mainland by a fast and simple procedure without the need to re-litigate subject to a few exceptions to protect the legitimate interests of the defendants; and vice versa. Hong Kong is the only jurisdiction to have such an arrangement with the Mainland.

Second example, the Interim Measures Arrangement signed in April 2019 allows parties to arbitration seated in Hong Kong and administered by designated arbitral institutions to apply to the Mainland courts for interim measures. Such interim measures include preservation of property, evidence and conduct. They will ensure that the status quo can be maintained pending the final resolution of the dispute which might be time consuming. Hong Kong is the first, and is still the only, common law jurisdiction outside the Mainland where this is possible.

Ms Si Yanli, the Deputy Director General of the Research Office of the Supreme People's Court of the People's Republic of China, who has participated in the negotiation, conclusion and implementation of some of these important mutual legal assistance agreements, will share her views in this respect during the panel discussions.

Mediation is becoming an important mode to resolve disputes whether at the

domestic or international level. With staunch support from the Central People's Government, the International Organization for Mediation (IOMed) Preparatory Office was established in Hong Kong in February this year. China and various foreign states had earlier signed the Joint Statement on the Future Establishment of the International Organization for Mediation. The IOMed will be the world's first international organisation dedicated to providing mediation services for settling international disputes. Not only will it be a useful supplement to the existing dispute resolution institutions, it could also contribute to harmonious and peaceful international relations.

The setting up of the Preparatory Office in Hong Kong signifies a vote of confidence cast by the Central People's Government and those countries signing the Joint Statement in Hong Kong's role as a leading centre for international legal and dispute resolution services. The Hong Kong Government will use its best efforts to assist in the work of the Preparatory Office and support the eventual establishment of the IOMed. You will hear more about the IOMed from Dr Sun Jin, the Director-General of the Preparatory Office, during the panel discussions.

To ensure that the legal service of Hong Kong will be user-friendly and in line with the development of modern technology, the Hong Kong Government fully supports the development of online dispute resolution and lawtech. In April 2020, Hong Kong opted into the APEC Collaborative Framework for Online Dispute Resolution of Cross-border Business-to-Business Disputes (APEC ODR Framework), which promotes the use of ODR by global enterprises, in particular micro, small and medium-sized enterprises, in resolving low-value cross-border business-to-business disputes.

Our home-grown institution, eBRAM, launched the APEC ODR procedural rules tailor-made for the APEC ODR Framework and has been listed by APEC as one of the very few service providers under the APEC ODR Framework since May 2022. Apart from its Online Mediation and Arbitration Platforms, eBRAM launched its Online Deal-making Platform just last month. These encouraging developments would facilitate cross-border trade and further strengthen the position of Hong Kong as a leading international legal and dispute resolution services centre. Dr Thomas So, the Chairman of eBRAM, will provide more detailed information about eBRAM during the panel discussions.

I sincerely hope and am confident that, after hearing our eminent speakers, not

only would you have a better understanding about various aspects regarding international legal co-operation in the context of the Belt and Road Initiative, but also you will be convinced that Hong Kong can provide effective, high-quality and trustworthy legal services to facilitate co-operations and developments under the Belt and Road Initiative.

And on this note, I wish you all a very fruitful and enjoyable afternoon. Thank you very much.

Ends/Wednesday, September 13, 2023