

Speech by DSJ at Law Society of Hong Kong's International Summit 2023 (English only) (with photo)

Following is the speech by the Deputy Secretary for Justice, Mr Cheung Kwok-kwan, at Session 2 - Prosperity: Leveraging on HKSAR's "eight centres", unique advantages, national development and Belt and Road Initiative for full-scale economic recovery and shared prosperity, of the Law Society of Hong Kong's International Summit 2023 in celebration of the 10th Anniversary of the Belt and Road Initiative today (October 11):

I thank the Law Society for inviting me to join this panel discussion on "prosperity" and how to leverage Hong Kong's unique advantages under the "eight centres". Recent national development plans such as the National 14th Five-Year Plan and the Outline Development Plan for the Greater Bay Area explicitly support Hong Kong to be the centre for international legal and dispute resolution services in the Asia-Pacific Region. In fact, Hong Kong's role as the centre for international legal and dispute resolution is essential in supporting Hong Kong to perform its functions as the other seven centres. Please allow me to first highlight some of the unique legal strengths of Hong Kong.

The robust Hong Kong legal system and the strength of Hong Kong law

A comprehensive legal regime and professional services are essential in supporting international and cross-border commercial activities. Hong Kong is renowned for having a sound and mature legal system, supported by an independent judiciary and a strong rule of law tradition. Under "one country, two systems", Hong Kong is the only common law jurisdiction in China, and the only common law jurisdiction using both English and Chinese as the official languages.

The strength of Hong Kong law, particularly in the civil and commercial fields, is internationally recognised. In the World Competitiveness Yearbook 2023, Hong Kong's ranking remains first globally in the "Business legislation" sub-factor. Therefore, I strongly recommend our Belt and Road counterparts to choose Hong Kong law as the governing law in business contracts.

Hong Kong legal and dispute resolution talents

Besides, Hong Kong has legal, deal-making and dispute resolution professionals from all over the world, symbolising the international connectivity of the profession. As of October 2023, there are 1 445 registered foreign lawyers in Hong Kong from 32 jurisdictions and 75 registered foreign law firms.

Apart from foreign lawyers, with the support of the Central Government, our local lawyers who have also obtained the GBA (Guangdong-Hong Kong-Macao Greater Bay Area) qualification, are able to provide legal advices in nine Mainland municipalities in the GBA on specified civil and commercial matters to which the Mainland law applies. These local and overseas legal professionals in Hong Kong provide a wide range of high value-added and specialised professional services to facilitate cross-border investment, IP (intellectual property) trading, art financing and dispute resolution.

Hong Kong as a world-class arbitration centre

Hong Kong offers comprehensive dispute resolution services, and ranked as the third most preferred seat for arbitration worldwide in the 2021 International Arbitration Survey. Hong Kong's arbitration regulatory framework is based on the UNCITRAL Model Law, with which the international business community is familiar.

Our arbitration legal framework has been keeping abreast with international developments. In addition to the full implementation of the third-party funding of arbitration regime in Hong Kong in 2019, the outcome-related fee structures for arbitration have also been fully implemented last December so that parties and their legal representatives could agree on the most suitable fee arrangements in conducting arbitration proceedings. In fact, the scope of both arbitration funding regimes are considerably wide, covering arbitration proceedings, related mediation and court proceedings as well as proceedings before an emergency arbitrator. With the flexibility offered in our arbitration funding regimes, I would recommend our Belt and Road friends to use Hong Kong's dispute resolution services and to choose Hong Kong as a seat of arbitration.

Hong Kong's unique strength under mutual legal assistance arrangements with the Mainland

Leveraging on the unique advantage of "one country, two systems", the various

arrangements on mutual legal assistance in civil and commercial matters signed with the Mainland enable Hong Kong to be a legal gateway into the Mainland, making Hong Kong the ideal choice for resolving Mainland-related disputes.

In particular, the Interim Measures Arrangement signed in 2019 allows parties to arbitration proceedings seated in Hong Kong and administered by designated arbitral institutions to apply to the Mainland courts for interim measures, including the preservation of property, evidence and conduct. In this regard, seating the arbitration in Hong Kong and choosing the right arbitral institutions would be crucial in making use of the Interim Measures Arrangement.

Over the past four years, over 100 applications have been submitted to 35 different Intermediate People's Courts in 27 Mainland cities.

This Arrangement is the world's first mutual judicial assistance arrangement to support interim measures in arbitral proceedings between two jurisdictions. Hong Kong has also become the first and currently the only common law jurisdiction outside the Mainland that can obtain judicial assistance for interim measures in arbitration before the Mainland Courts.

For your information, there will be a seminar on the coming Tuesday (October 17) about retrospect and prospect of the Arrangement, which is co-organised by the Supreme People's Court, People's Republic of China, and the Department of Justice. You are cordially invited to join the seminar to know more about the details and advantages of the Arrangement.

By the arrangement with the Mainland on the reciprocal recognition and enforcement of civil and commercial judgments, Hong Kong court judgments will be enforceable in the Mainland. Going one step further, beyond what the Hague Judgments Convention currently provides, this unique arrangement additionally includes mutual enforcement of certain intellectual property judgments. We expect the arrangement would be fully implemented very soon.

Hong Kong's competitive edge to develop as an international IP trading hub

With the above unique advantages, Hong Kong, as the centre for international legal and dispute resolution services, is very competitive in developing into the four emerging sectors under the National 14th Five-Year Plan. Let me take the IP trading

hub as an example. Our IP protection system is robust and ranked 12th globally in the regulatory framework of IP rights. In view of the rapid developments of innovation and technology (I&T) in the GBA, and the thriving commercialisation of artworks, there is significant supply and demand for IP protection and trade. Hong Kong, China is a member of the World Trade Organization (WTO). Our local laws fully comply with the WTO's Agreement on Trade-Related Aspects of IP Rights. Major international IP conventions, including the WIPO (World Intellectual Property Organization) treaties apply to Hong Kong as well.

In Hong Kong, our Intellectual Property Department is the focal point on IP policy, law and registration, and capacity building on IP protection. Our Customs and Excise Department is dedicated to effective enforcement on IP infringements. Therefore, Hong Kong is an ideal IP trading centre, backed by strong legal infrastructure, for GBA and Mainland enterprises to enter into the international market, and for overseas investors to tap business opportunities on the Mainland.

Conclusion

In fact, our solid foundation of rule of law is a core pillar to support Hong Kong to develop into an international aviation hub, an international I&T hub, as well as an East-meets-West centre for international cultural exchange. We will take the opportunity to elaborate on these topics in the upcoming Hong Kong Legal Week 2023 and I would take this opportunity to invite our Belt and Road friends to join us in the Hong Kong Legal Week 2023 from November 6 to 10. I look forward to meeting you all there. Thank you.

Ends/Wednesday, October 11, 2023