

Speech by SJ at plenary session of 14th China-ASEAN Prosecutors-General Conference in Singapore (English only) (with photo)

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Following is the speech by the Secretary for Justice, Mr Paul Lam, SC, at the plenary session of the 14th China-ASEAN Prosecutors-General Conference in Singapore today (October 29):

Mr Chairman, Your Excellencies, distinguished guests, ladies and gentlemen,

To begin with, I would like to express my heartfelt gratitude to Your Excellency Mr Lucien Wong, SC, for organising this year's conference.

Urgent call for co-operation in the fight against financial crimes

The theme of this year's conference is "Fostering Co-operation on Combating Financial Crimes". The definition of financial crimes is very wide. In Hong Kong, they cover a broad range of money-related criminal activities including money laundering, terrorists financing, fraud, theft, market misconduct as well as corruption and irregularities in the financial market. There is, however, very often a common element: that is they involve transboundary elements.

In recent years, we have witnessed an alarming rise in financial crimes. The United Nations Office on Drugs and Crime (UNODC) estimated that money laundered globally in one year is 2-5 per cent of global gross domestic product, that is approximately US\$800 billion to \$2 trillion. Hong Kong, which ranks No. 1 in the 2024 Economic Freedom of the World Report compiled by the Fraser Institute, is not immune to these challenges. According to the latest statistics released by the Hong Kong Police Force, over 19 000 cases of deception were registered in the first half of 2024, accounting for around 44 per cent of the total number of crimes and resulting in the loss of HK\$4.48 billion.

There is, therefore, no wonder why there is consensus that international co-operation to combat financial crimes is both essential and imminent. In May this year, the Heads of the Financial Action Task Force (FATF), the UNODC and the International Criminal Police Organization (Interpol) issued an unprecedented joint call for actions to be taken

across sectors and at the global level to target the huge illicit profits generated by transnational organised crimes that facilitate conflicts, fund terrorism and negatively impact vulnerable populations.

Hong Kong is committed to engaging in international co-operation to combat financial crimes proactively. This is both required and made possible by the principle of "one country, two systems". In the Basic Law of the Hong Kong Special Administrative Region, Article 109 gives Hong Kong the mandate to provide an appropriate economic and legal environment for the maintenance of the status of Hong Kong as an international financial centre. Under Articles 96 and 152 of the Basic Law respectively, Hong Kong may make appropriate arrangements with foreign states for reciprocal juridical assistance, and representatives of Hong Kong may participate in international organisations or conferences as members of delegations of the People's Republic of China or in other appropriate capacity.

Hong Kong has been adopting a four-pronged approach in combating financial crimes with international elements: first, espousing international regulatory standards; second, establishing a collaborative network for effective prosecution and asset recovery; third, embracing technologies as our new tools; and, lastly, encouraging knowledge and experience sharing.

#### Espousing international regulatory standards

Let me begin with espousing international regulatory standards. While different jurisdictions have diverse legal landscapes and different financial systems, it is essential to ensure that the local legal and regulatory frameworks would comply with international standards. I am proud to say that Hong Kong has so far successfully achieved this objective.

Owing to the fact that, in practice, it is very often difficult to identify, catch and bring participants of financial crimes to justice and that the loss and damage caused by such crimes are in many cases untraceable and irrecoverable, the Hong Kong law in this respect focus very much on effective prevention and early detection of suspicious transactions. Our Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (AMLO) sets out the requirements on financial institutions regarding customer due diligence and record keeping; and other legislations impose statutory

obligations for reporting suspicious transactions. Earlier this year, the Hong Kong Court of Final Appeal in a landmark judgment known as *Tam Sze Leung & Ors v Commissioner of Police* (2024) 27 HKCFAR 288 upheld the validity of the "letters of no consent" scheme under the Organized and Serious Crimes Ordinance (Cap. 455), which aims at assisting financial institutions to consider how to deal with, or not to deal with, funds known or suspected to be proceeds of crime.

On the other hand, the Securities and Futures Commission of Hong Kong publishes alert list to provide early warnings to investors on suspicious investment products and virtual asset trading platforms. Very recently in August this year, the Hong Kong Monetary Authority (HKMA), in collaboration with the Hong Kong Police Force and the Hong Kong Association of Banks, extended the coverage of the Suspicious Account Alert to physical branches and Internet banking transactions.

Hong Kong has been a member of the FATF, an intergovernmental organisation which sets global standards for combating money laundering and terrorist financing, since 1991. In the fourth round of FATF mutual evaluation in 2018-19, Hong Kong's anti-money laundering and counter-financing of terrorism (AML/CFT) system has been assessed to be compliant and effective overall, making it the first jurisdiction in the Asia-Pacific region to have achieved an overall compliant result. The FATF also adopted Hong Kong's follow-up report and recognised Hong Kong's efforts in strengthening its AML/CFT regulatory regimes last year.

That said, Hong Kong does not remain complacent. Hong Kong is also one of the founding members of the Asia/Pacific Group on Money Laundering (APG), an autonomous FATF-style regional anti-money laundering body, founded in 1997. The APG published annual reports to assist governments and other stakeholders to have a better understanding about the nature of existing and emerging threats. The 2023 report includes a chapter on threats and trends related to virtual assets and virtual asset service providers. Hong Kong took the initiative to introduce a licensing regime for virtual asset service providers under AMLO, which came into effect in June 2023. To further strengthen the virtual assets regulatory framework in Hong Kong, we consulted the public on a regulatory regime for stablecoins earlier this year and had received overall support.

Establishing a collaborative network for effective prosecution and asset recovery

Let me turn to establishing a collaborative network across jurisdictions to enable effective prosecution of financial crimes and asset recovery.

Hong Kong has established a comprehensive co-operation regime for the mutual legal assistance and surrender of fugitives. The Department of Justice of Hong Kong published various practical step-by-step guidelines, such as "Guide to Asset Recovery in the Hong Kong Special Administrative Region" and "Guidelines for Making Applications under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525)", with a view to assisting our foreign counterparts in understanding the procedures in relation to international legal co-operation in criminal matters in Hong Kong and the wide range of legal assistance that may be provided by Hong Kong, such as taking of oral evidence, obtaining materials under production orders, enforcement of external confiscation orders and restraining of dealing in property which may be subject to external confiscation orders, etc.

Over the years, the Department of Justice has been providing effective and timely assistance to various foreign jurisdictions, including our ASEAN and Asia-Pacific partners. Let me share with you some examples. Recently, pursuant to a request made by an East Asian country, we have successfully obtained from the High Court a restraint order freezing assets in the form of cryptocurrencies of a total value of more than US\$20 million, which are suspected to be proceeds of a massive fraudulent scheme. In another case regarding a request received from Indonesia, we have restrained over US\$8 million worth of assets, representing proceeds of offences of fraud and money laundering, with a view to repatriating the confiscated funds back to the victim of crimes in Indonesia eventually. Singapore is one of our most valued and top legal co-operation partners. Thanks to the tireless effort of the Attorney General's Chambers of Singapore, a fugitive was successfully surrendered back to Hong Kong earlier this month to face justice in court for offences relating to a securities fraud. In another case involving offences of money laundering and corruption, Hong Kong is working very closely with Singapore in our collaboration to repatriate US\$13 million of proceeds of crime back to the victim in Mainland China. In yet another example, with the joint effort of Interpol and following extensive information sharing and joint investigations by the police from Singapore and Hong Kong, a transnational syndicate allegedly involved in laundering ill-gotten gains derived from tech support scams, including around HK\$33 million from the victims in Singapore, has recently been crippled in August this year, resulting in the arrest of eight

persons in Singapore and Hong Kong.

Another significant development in 2024 is that, on June 26, 2024, Hong Kong has officially joined the South East Asia Justice Network (SEAJust), which was established in 2020 with the support of the UNODC. This enables Hong Kong to make use of this important platform to facilitate co-operation in criminal matters with other members, including all my friends here today.

I feel obliged to take this opportunity to register my disappointment that, due to geopolitical reasons, some Western countries have unilaterally suspended their mutual legal co-operation arrangements with Hong Kong, which is plainly against common interests. Geopolitical considerations should not be allowed to hinder international co-operation in fighting financial crimes.

Embracing technologies as our new arsenal of tools

Let me move on to embracing technologies as our tools. In this digital age, technology is evolving at an unprecedented pace. It is unfortunate that it has been misused to enable financial crimes to transcend borders and get "bigger" in terms of quantity and complexity, and allow the culprits to hide their identities in the virtual world.

To counter such misuse, we should consider how to deploy technological advancements as our ally. In particular, we should proactively explore the possibilities of leveraging powerful artificial intelligence (AI) tools for detecting and disrupting financial crimes at an early stage. For example, AI-powered systems may facilitate real-time online transaction monitoring and individual behavioural analysis, and alert unusual transaction patterns with speed and accuracy that human beings cannot duplicate. AI-assisted automation may also play a pivotal role in enhancing the efficiency of investigations. AI technology is able to analyse vast amounts of data at lightning speed. Automating some repetitive but essential tasks throughout the investigation process enables investigation officers to dedicate their time and energy to developing strategies in higher-impact cases.

On September 9, 2024, with a view to accelerating the use of AI in monitoring money laundering and terrorist financing risks, the Hong Kong Monetary Authority published a circular on "Use of Artificial Intelligence for Monitoring Suspicious Activities". The HKMA observed that AI-powered systems take into account a broad range of contextual

information focusing not only on individual transactions, but also the active risk profile and past transaction patterns of customers in determining whether the activity of a customer should be flagged for further investigation. These enhanced systems have proved to be more effective and efficient than conventional rules-based transaction monitoring systems.

#### Encouraging knowledge and experience sharing

Lastly, let me say a few words on encouraging knowledge and experience sharing.

Last month, a dedicated team of prosecutors who specialise in prosecuting sophisticated and syndicated high-tech crimes in the Prosecutions Division of the Department of Justice of Hong Kong paid a visit to Guangdong Provincial People's Procuratorate, the High People's Court of Guangdong Province and Guangzhou Internet Court. The sharing sessions with Mainland judges and procurators were greatly beneficial to deepening the mutual understanding of the latest trends of deception cases and the handling of cryptocurrency cases.

And, of course, international symposiums and conferences provide an excellent forum for free flow of ideas, which assist in gathering and accumulating a general pool of knowledge, and stimulating new and innovative ideas to combat financial crimes. This successful conference is, by itself, a perfect example.

In this aspect, I am very pleased to inform you that, next month between November 27 and 29, Hong Kong will organise the 11th Asia and Pacific Regional Conference of the International Association of Prosecutors (IAP) under the theme of "Effective Prosecution Service in the Technological Age". I look forward to welcoming you to Hong Kong.

Lastly, I am also very pleased to inform you that the Department of Justice of Hong Kong will formally establish the Hong Kong International Legal Talents Training Academy very soon. The Academy will organise practical training courses, seminars, and international exchange programmes to promote exchanges among legal professionals coming from different jurisdictions. This may serve as an additional platform for capacity building and experience sharing in the area of international co-operation on combating financial crimes.

## Concluding remarks

To conclude, while the challenges we face in our fight against financial crimes are daunting and are likely to be ongoing, they are ones that we can and must overcome - together. In this war that we cannot afford losing, let us remain steadfast to our commitment to align with international regulatory standards, work closely via various collaborative networks, make better use of emerging technologies, and share knowledge and experience. In co-operation lies our strength, and in action lies the promise of a secure financial environment where trust and integrity flourish.

On this note, may I once again thank the Attorney-General's Chambers of Singapore for giving me and other members of the Hong Kong delegation such a fruitful experience at this successful conference, and to all the distinguished speakers and friends from the Mainland and ASEAN countries for their sharing of valuable insights and experiences. Thank you very much.

Ends/Tuesday, October 29, 2024