

**For discussion on
25 April 2022**

**Legislative Council Panel on
Administration of Justice and Legal Services**

Promoting and facilitating wider use of LawTech

INTRODUCTION

Since the Chief Executive outlined the development of LawTech back in her 2018 Policy Address, the Department of Justice (“DoJ”) has been actively exploring the development of LawTech in providing quality legal and dispute resolution services in Hong Kong and the region. This is also in line with the global trend to development and use of online dispute resolution (“ODR”) services to provide a reliable and efficient platform to facilitate alternative dispute resolution.

2. This paper provides an update of some of the latest international developments on LawTech relevant to Hong Kong and some recent LawTech initiatives in Hong Kong.

(A) International Cooperation on LawTech

3. To enhance Hong Kong’s position as an international dispute resolution services centre, DoJ is very active in strengthening cooperation with international organizations and other jurisdictions to promote the use of ODR for dispute settlement.

(1) Asia-Pacific Economic Cooperation (“APEC”)

4. In collaboration with international organisations, Hong Kong, China opted into the APEC Collaborative Framework on Online Dispute Resolution of Cross-Border Business to Business Disputes (“APEC Collaborative Framework on ODR”) in April 2020 to promote the use of ODR for Micro, Small and Medium-sized Enterprises (“MSMEs”) in APEC economies. In June 2021, the eBRAM International Online Dispute Resolution Centre (“eBRAM Centre”) launched the APEC ODR procedural rules tailor-made for the APEC Collaborative Framework on ODR, which aims to provide a fast and affordable resort to commercial disputes among the APEC economies to MSMEs through the use of

electronic communications and other information technologies. Representatives from the eBRAM Centre in Hong Kong have been participating actively in the work under the APEC Collaborative Framework on ODR such as various webinars, workshops and APEC Economic Committee meetings. In February 2022, the eBRAM Centre indicated to the APEC its commitment to become an ODR service provider for APEC economies. The APEC Secretariat is currently processing the submission from the eBRAM Centre and it is expected that the eBRAM Centre would be officially listed as a service provider under the APEC Collaborative Framework on ODR in the very near future.

(2) Hague Conference on Private International Law (“HCCH”)

5. Apart from the international recognition of the value and benefits of ODR for businesses, ODR has also been recommended by the international communities as a mean to assist tourists to resolve disputes arising from their tourism experience abroad. As such, the HCCH has developed a “Practical Guide to Access to Justice for International Tourist and Visitors” which has surveyed and made reference to a number of ODR services providers around the world which could provide such facilities to the international tourists and visitors. The draft Practical Guide developed by HCCH has made reference to, *inter alia*, the COVID-19 ODR Scheme¹ in Hong Kong, as well as the eBRAM Centre’s online mediation platform and online arbitration platform², in the illustrative list of ODR platforms, which demonstrates the usefulness of such platforms for international tourists and visitors. On 1 March 2022, the HCCH Council on General Affairs and Policy approved the publication of the draft Practical Guide to Access to Justice for International Tourist and Visitors 2022, which will be officially published in the near future. The guide will not only help international tourists and visitors to resolve their disputes but also promote the ODR services offered by Hong Kong.

(3) iGLIP on ODR (including the UNCITRAL Colloquium on Possible Future Work on Dispute Settlement)

6. In 2020, pursuant to a Memorandum of Understanding signed between the HKSAR Government and the United Nations, the DoJ Project Office for Collaboration with UNCITRAL (“DoJ Project Office”) was established in the Hong Kong Legal Hub. The first initiative of the DoJ Project Office was the establishment of the Inclusive Global Legal

¹ see paragraphs 13-16 below

² see paragraphs 17-18 below

Innovation Platform on Online Dispute Resolution (“iGLIP on ODR”), which comprised of experts around the world with the purpose of keeping track of recent developments with regard to ODR and to identify possible future work in the relevant area. iGLIP on ODR has already held two meetings in collaboration with the United Nations Commission on International Trade Law (“UNCITRAL”) secretariat in March and November 2021 respectively. At its 54th session, the UNCITRAL Commission also endorsed the continued collaboration between its secretariat and DoJ. The UNCITRAL secretariat will continue to take part in iGLIP on ODR, so as to utilise the expertise, resources and connections available, and to cooperate in awareness enhancement and capacity-building.

7. The work on iGLIP on ODR, in particular its discussion at its second meeting on a possible legal instrument on “Access to Justice and the Role of ODR” which aims to facilitate international access to justice through the use of ODR was presented during the seventy-fifth session of UNCITRAL’s Working Group II at the UNCITRAL Colloquium on Possible Future Work on Dispute Settlement held from 28 March to 1 April 2022 at the United Nations Headquarters, New York and online. There was general support expressed at the Colloquium for continuing the collaboration between the UNCITRAL secretariat and iGLIP on ODR.

(B) LawTech Initiatives in Hong Kong

(i) Hong Kong Legal Cloud

8. In the Policy Address of 2020, the Chief Executive announced that “DoJ will actively explore the development of the Hong Kong Legal Cloud, a state-of-the-art online facility equipped with advanced information security technology, to provide secure, reliable and affordable data storage services for the local legal and dispute resolution sector to promote the overall long-term development of Hong Kong’s legal and dispute resolution services”.

9. After some preparatory work, it was resolved that DoJ would support the development of Hong Kong Legal Cloud by selected non-profit making non-governmental organisations through Public-Private Partnership. In February 2021, DoJ invited submission from interested organisations to express interest in developing the Hong Kong Legal Cloud. After considering the submissions and supplementary information provided by interested local non-profit-making non-governmental

organisations, the eBRAM Centre has been selected for providing very affordable Hong Kong Legal Cloud services at HK\$3,600 per year.

10. The Hong Kong Legal Cloud was launched on 1 March 2022. The Hong Kong Legal Cloud is an online facility situated in Hong Kong that is equipped with advanced information security technology to provide safe, secure and affordable data storage services for the local legal and dispute resolution industries. The key features of the Hong Kong Legal Cloud Portal³ developed by the eBRAM Centre includes-

- (I) Legal Document Exchange
 - up to 100GB online storage per subscriber that facilitates sharing of legal documents with clients within a secure environment
 - files are stored securely in data centres with high data availability located in Hong Kong
 - other features include secured data localization, authenticated external user access, shared access expiry and disaster recovery support
- (II) Hong Kong Research Platform
 - in partnership with LexisNexis, provides subscribers with exclusive access to Lexis Advance® Hong Kong platform
 - databases include the Annotated Ordinances of Hong Kong, the Hong Kong Cases, the Laws of Hong Kong, the Practical Guidance Corporate etc.
- (III) Machine & Human Translation Services
 - e-translation system with AI Machine Learning assisted translation to translate their documents from and to English for Chinese (traditional and simplified), Russia, Arabic and Spanish
 - subscribers may also choose human professional translator for final-touch editing improvement for translating documents at additional cost.

11. By making use of the remaining balance of the LawTech Fund⁴,

³ <https://hklegalcloud.ebram.org/>

⁴ The LawTech Fund established in 2020 under the Anti-epidemic Fund assisted small and medium-sized law firms and chambers to keep up with the development in remote hearings through procuring and upgrading their IT systems and arranging their staff to attend LawTech trainings. Over 500 applications were received from over 70% of target firms and chambers.

DoJ provides a funding support of around HK\$15.7 million (“the Hong Kong Legal Cloud Fund”) to subsidize eligible subscribers to subscribe to the Hong Kong Legal Cloud. Eligible subscribers⁵ will be subsidised through the Hong Kong Legal Cloud Fund, which is administered by the Asian Academy of International Law on a pro bono basis and will in turn be used to finance the setup cost and initial operational and promotion costs through disbursement of subscription fees for up to three years.

12. Since its launch on 1 March 2022, the Hong Kong Legal Cloud has received positive responses from the legal and dispute resolution communities with over 250 subscriptions as at early April 2022. We understand that the eBRAM Centre will continue to promote the Hong Kong Legal Cloud with professional bodies including the Law Society of Hong Kong, the Hong Kong Bar Association, the Hong Kong Institute of Arbitrators, the Chartered Institute of Arbitrators (East Asia Branch), the Hong Kong Mediation Accreditation Association Limited.

(ii) Other Updates from the eBRAM Centre:

(a) COVID-19 Online Dispute Resolution (ODR) Scheme

13. The COVID-19 Online Dispute Resolution (ODR) Scheme (“COVID-19 ODR Scheme”) was launched in June 2020. Through the ODR platform developed by the eBRAM Centre, the COVID-19 ODR Scheme provides speedy and cost effective means to resolve low-value and COVID-19 related disputes, especially those involving MSMEs, many of which are being hard hit by the negative economic impact brought by the pandemic.

14. Under the COVID-19 ODR Scheme, a dispute can be submitted to the platform for resolution if it (i) involves a resident of Hong Kong or a Hong Kong company, (ii) is COVID-19 related and (iii) involves a dispute amount of not more than HK\$500,000. The parties are required to enter into a dispute resolution agreement under the Scheme and pay only

⁵ Currently, a subscriber in Hong Kong who falls within any of the following categories will be subsidised—(a) a solicitor admitted in Hong Kong or any one of the recognized jurisdictions as stipulated under section 2A and Schedule 2 of the Legal Officers Ordinance (Cap. 87); (b) a barrister who has attained the right to full practice in Hong Kong or any one of the recognized jurisdictions as stipulated under section 2A and Schedule 2 of the Legal Officers Ordinance (Cap. 87); (c) a mediator accredited by the Hong Kong Mediation Accreditation Association Limited; or (d) a fellow or chartered arbitrator of the Hong Kong Institute of Arbitrators or the Chartered Institute of Arbitrators (East Asia Branch).

HK\$200 each side as the registration fee, while the fees for the mediators and arbitrators are borne by the Government.

15. The ODR platform developed for the COVID-19 ODR Scheme features a multi-tiered dispute resolution mechanism, enabling parties to go through negotiation, mediation and arbitration hearings online with video conferencing facilities within a short period of time in a secure and effective environment. All data submitted to the platform will be stored in a private cloud hosted in Hong Kong.

16. As of early April 2022, the eBRAM Centre has received over 400 enquiries and handled about 20 cases under the COVID-19 ODR Scheme. Around 160 mediators and arbitrators have joined the COVID-19 ODR Scheme and completed the online training course. The ODR platform and the COVID-19 ODR Scheme, laid the foundation for subsequent ODR development.

(b) Other Online Dispute Resolution Services

17. In June 2021, the eBRAM Centre adopted its own set of mediation rules and arbitration rules with a model clause which provides for using ODR via the eBRAM Centre for dispute settlement. By agreeing to use ODR as the means for dispute resolution upfront, parties may include the model clause *at the time* when the contract is made.

18. With its own mediation and arbitration rules, the eBRAM Centre is currently developing its online mediation platform and online arbitration platform which will be launched in the second quarter of 2022. These platforms will provide speedy, convenient and secure ODR services at a reasonable fee, regardless of where the dispute happened, the location of parties, the type of disputes and amount in dispute.

19. Besides the online mediation platform and online arbitration platform, as mentioned in paragraph 4 above, the eBRAM Centre is also developing and refining its APEC ODR platform.

(c) Deal-making Portal

20. In addition to ODR service, the eBRAM Centre is developing a deal-making portal which aims to overcome the challenges of cross-border transactions, for instance, limited data available on the reputation and credentials of the asset and the cultural and communication obstacles.

21. The portal will be a one-stop marketplace equipped with virtual meeting with real-time transcription for business negotiations, e-Signing with face-recognition feature for e-ID (ID card and passport) and e-KYC with biometric identification, Smart Contract etc. It will also include the AI Machine translation service developed by the eBRAM Centre in Chinese, English, Russia and Arabic. These features will facilitate the deal-making process and dispute avoidance. It is expected that such deal-making portal will be launched in the third or fourth quarter of 2022.

CONCLUSION

22. For publicity, various webinars have been organised to promote the use of LawTech by the local legal and dispute resolution profession. Most recently, in celebration of the 25th anniversary of the establishment of the Hong Kong SAR, DoJ supported the “Webinar on the Development of LawTech in Hong Kong in the past 25 years” co-organised by the Law Society of Hong Kong and the eBRAM Centre. The webinar was successfully held on 7 March 2022 with over 200 online participants.

23. The development of LawTech has not only facilitated the day to day practice of the legal industry, but also strengthened Hong Kong’s position as the leading centre for international legal and dispute resolution services in the Asia-Pacific Region. DoJ will continue to encourage and support the legal and dispute resolution sectors through different channels to strengthen their relevant LawTech capabilities as we move towards popularising LawTech in the long run, promoting access to justice with a view to achieving our mission of “Rule of Law and Justice for All”.

Department of Justice
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