

# Speech by Acting SJ at AALCO Annual Arbitration Forum 2023 (English only) (with photo)

Following is the speech by the Acting Secretary for Justice, Mr Cheung Kwok-kwan, at the AALCO Annual Arbitration Forum 2023 today (December 5):

His Excellency Dr Kamalinne Pinitpuvadol (Secretary-General of the Asian-African Legal Consultative Organization (AALCO)), Mr Nick Chan (Director of AALCO Hong Kong Regional Arbitration Centre), Deputy Commissioner Fang Jianming (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), distinguished guests, ladies and gentlemen,

Good morning. On behalf of the Department of Justice of the Government of the Hong Kong Special Administrative Region, I would like to express our warmest welcome to all of our eminent speakers and participants attending in-person and online from all over the world.

I also extend my congratulations to the organiser, AALCO Hong Kong Regional Arbitration Centre (AALCO Hong Kong), as well as all the 53 supporting organisations and sponsors for this first AALCO arbitration forum held in Hong Kong. With that many supporting organisations, it shows how popular AALCO is in Hong Kong, and how the local community warmly welcomes the AALCO family with open arms.

AALCO Hong Kong is the latest addition to the other five AALCO regional arbitration centres, integrating itself in the AALCO dispute settlement system and performing a variety of tasks, including providing facilities for alternative dispute resolution (ADR) services, assisting in the enforcement of arbitral awards, and promoting the growth and effective functioning of arbitration and other dispute resolution services, including online dispute resolution services, or ODR.

AALCO Hong Kong forges a perfect synergy with Hong Kong as a leading centre for international legal and dispute resolution services in the Asia-Pacific region. Today, I wish to underscore two key aspects which contribute to Hong Kong's unique position as an international legal hub, namely our robust legal and technological infrastructure.

## Legal infrastructure

Hong Kong's judicial system is open, independent, and enjoys a renowned international reputation. It is also uniquely the only common law jurisdiction in China. Our statutes are available in both English and Chinese, making them easily accessible to international investors, lawyers, and people around the world, and our civil and commercial laws align with

international standards and practices. All these qualities promote the efficient resolution of cross-border disputes, installing confidence among businesses and investors in Asian-African regions and along the routes of the Belt and Road Initiative (BRI).

Our legal framework, which is constantly being enhanced, strongly supports arbitration and mediation. For example, if you wish to institute arbitral proceedings against a party who is situated in or with assets located in the Mainland of China, Hong Kong has signed nine arrangements on mutual legal assistance in civil and commercial matters with the Mainland of China, three of which are related to arbitration.

One of these arrangements is the Interim Measures Arrangement (Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region). Hong Kong is the first and only common law jurisdiction outside the Mainland of China where, as a seat of arbitration, parties to arbitral proceedings administered by designated arbitral institutions would be able to apply to the Mainland Chinese courts for interim measures including the preservation of assets, evidence and conduct. As at October this year, the total value of assets preserved by 71 decisions issued by the Mainland courts amounted to approximately US\$2.2 billion. AALCO Hong Kong is the only qualified arbitral institution under the Interim Measures Arrangement which is established under international law with international organisation status, providing parties with truly "nationality neutral" institutional arbitration services.

The Ordinance, which is known as the Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Ordinance, has also already come into effect, which permits lawyers and clients to have an additional option to enter into outcome-related fee structure agreements for arbitration. The new regime allows a broad range of fee options, including conditional fee agreements, damages-based agreements and hybrid damages-based agreements. The introduction of such new regime enables Hong Kong to keep up with the latest offerings in international arbitration. Along with the third party funding regime for arbitration, Hong Kong now provides multiple funding options which enable flexible fee arrangements in arbitrations.

Moreover, Hong Kong is home to an abundant pool of legal professionals with extensive experience handling complex legal disputes and international transactions. Their worldwide exposure cultivates a rich ground for people-to-people exchange. The Department of Justice, for instance, co-organised the 6th training session of the China-AALCO exchange programme on international law in Hong Kong this summer, and AALCO Hong Kong conducted part of the training. These initiatives not only develop legal talent for international law practice, but also strengthen ties and connections among the various 47 AALCO member states.

## Technological infrastructure

The growing e-commerce sector and the widespread use of technology in

business transactions have created a desire for legal services that are not limited by linguistic, geographical, or cultural barriers. With the great diversity seen along the BRI routes, this is especially relevant when it comes to deal-making and dispute resolution across the continents of Asia and Africa.

The legal community in Hong Kong is quick to learn and incorporate artificial intelligence (AI) to improve access to justice and reduce cost of doing business and dispute resolution. Various international and regional organisations, including APEC (Asia-Pacific Economic Cooperation), are taking active steps to promote the use of ODR.

ODR is a process that utilises technologies in a full spectrum of ADR services. As recognised by the United Nations, ODR "can assist parties in resolving the dispute in a simple, fast, flexible and secure manner, without the need for physical presence at a meeting or hearing". To capitalise on the opportunities brought about by international and regional developments, the Department of Justice supports and promotes the development of ODR in Hong Kong. In recent years, in addition to ODR operated by traditional ADR institutions, a dedicated online platform has been established in Hong Kong, being the Electronic Business Related Arbitration and Mediation (eBRAM) platform, which provides an efficient, cost-effective and secure platform for online deal-making and resolving disputes among parties in any part of the world by integrating state-of-the-art technology. We take pride in the fact that eBRAM International Online Dispute Resolution Centre, as a home-grown lawtech centre, is the first and only ODR provider from Hong Kong listed under the APEC Collaborative Framework for ODR of Cross-Border Business-to-Business Disputes since May 2022.

eBRAM has laid a solid foundation for Hong Kong's research and development in the areas of lawtech. We are pleased that AALCO Hong Kong has successfully launched their ODR platform, adopting a number of advanced lawtech with the assistance of eBRAM. Through the use of ODR and lawtech, AALCO Hong Kong would be able to reduce error in repeated form fillings, and to assist with using AI, in particular deep learning, to come up with legal domain specific language sets. This will enable accurate translations for multiple languages commonly used in the more than a hundred countries.

Hong Kong as a Special Administrative Region has many unique advantages and opportunities to offer to help the ethical growth and deployment as a helpful tool to do good, not do harm.

## Conclusion

Ladies and gentlemen, we are confident that with the support of our Central People's Government and under the principle of "one country, two systems", Hong Kong's co-operation with international intergovernmental organisations like AALCO, and international connections among the BRI routes will continue to flourish. Fully embracing the Bandung Spirit, and with the aid of technology including lawtech and ODR, Hong Kong will continue to play a leading role as a centre for international legal and dispute resolution services in the Asia-Pacific region for many years to come.

On this note, I wish this AALCO Annual Arbitration Forum 2023 every success. For our overseas guests who joined us in person, I wish you an enjoyable stay in Hong Kong.

And to those of you who are from Hong Kong, District Council Election will be held on December 10. I appeal to all of you to vote, together with your families and friends, on the polling day in the hope of electing District Council members with talent, aspiration and commitment to build a better community for Hong Kong. Thank you very much.

