

Speech by SJ at 5th UNCITRAL Asia Pacific Judicial Summit – Judicial Roundtable (English only)

Following are the welcome remarks by the Secretary for Justice, Mr Paul Lam, SC, at the 5th UNCITRAL Asia Pacific Judicial Summit – Judicial Roundtable under Hong Kong Legal Week 2023 today (November 7):

Anna (Secretary of the United Nations Commission on International Trade Law (UNCITRAL), Ms Anna Joubin-Bret), distinguished judges and guests, ladies and gentlemen,

Good morning. It is a great honour for me to be here today to speak at the opening of the Judicial Roundtable 2023. I would like to extend my warmest greetings to all the distinguished judges and guests who have gathered here from various jurisdictions as well as those who join us online.

The concept of a "roundtable" underscores the importance of open dialogue and mutual exchange. By adopting this format, we hope to encourage an inclusive and interactive environment where participants can freely engage in the discussions and share any views.

In the past three years, we have witnessed the world facing unprecedented challenges due to the global pandemic, and the legal landscape has not been immune to these challenges. The pandemic has highlighted the need for agile and adaptable judicial systems that can effectively respond to evolving circumstances. As judges or legal professionals, it is crucial for us to reflect on the problems that emerged during this period. The lessons learned during the pandemic will shape the future of our judicial processes and contribute to building more resilient and efficient systems for the benefit of all.

I hope that the Judicial Summit, including the Conference yesterday and the Roundtable today, will continue to serve as an important platform to contribute to judicial capacity building in this region and beyond. In the future, we aspire to strengthen our collaboration with UNCITRAL and possibly other international organisations to expand the reach of the Judicial Summit to more stakeholders in different parts of the world, reflecting our desire to work together in the spirit of inclusiveness in future capacity building projects.

UNCITRAL mediation framework

One of the key topics that will be discussed today is mediation. In recent years, mediation has emerged as an effective, and often more economical, alternative dispute resolution method, allowing parties to find mutually agreeable solutions to their dispute outside the courtroom. The use of mediation has grown globally and we have seen many initiatives that

encourage the further use of mediation both in courts and outside courts.

Cross-border disputes are becoming increasingly common in our interconnected world. To encourage further use of mediation, it is essential to establish clear rules and international standards for the conduct of mediation and enforcement of settlement agreements. Earlier this year, the International Organization for Mediation Preparatory Office was opened in Hong Kong, with a view to establishing the International Organization for Mediation, which further highlighted the interest and need for the use of mediation in settling international disputes.

In line with our Chief Executive's Policy Address 2023, Hong Kong, as an international legal and dispute resolution services centre, is committed to deepening the mediation culture. We will enhance the mediation system by strengthening the regulatory framework for the accreditation and disciplinary matters of the mediation profession. Additionally, we will encourage the incorporation of standard mediation clauses in government contracts, and promote their adoption in contracts by private organisations.

The first session of today's Roundtable discussion, with a specific focus on the UNCITRAL mediation framework, is therefore very relevant to Hong Kong as we develop our policies to deepen our mediation culture.

Despite the challenges posed by the global pandemic, UNCITRAL and the international community are to be commended for the important work done in promoting the use of mediation during the past three years. Indeed, important breakthroughs were made, and significant milestones were reached. In 2020, the United Nations Convention on International Settlement Agreements Resulting from Mediation came into force, establishing a harmonised legal framework for the right to invoke settlement agreements as well as for their enforcement. In 2021, UNCITRAL has adopted the UNCITRAL Mediation Rules (2021), providing a comprehensive set of procedural rules upon which parties may agree for the conduct of mediation proceedings arising out of their relationship. A few months ago, UNCITRAL also adopted the UNCITRAL Model Provisions on Mediation and the UNCITRAL Guidelines on Mediation for International Investment Disputes.

I am confident that judges and participants would benefit from the insightful discussion of the UNCITRAL mediation framework and the relevant UNCITRAL instruments, which would serve a strong foundation for our further exchange in this area.

Use of technology in dispute resolution and court proceedings

I also note the use of technology in dispute resolution and court proceedings in today's second session. Technological advancements have revolutionised the way we live and work, and the field of dispute resolution is no exception. The COVID-19 pandemic has acted as a catalyst, prompting us to explore innovative ways to ensure the continuity of justice in challenging times.

In Hong Kong, the Court Proceedings (Electronic Technology) Ordinance

(Cap. 638) was enacted in 2020 during the pandemic to provide an overall legislative framework to enable court-related documents to be handled in electronic form. It also provides that the Chief Justice of the Hong Kong Court of Final Appeal may specify by subsidiary legislation the detailed court and operational procedures for the use of electronic mode. In Hong Kong, the Ordinance and the relevant subsidiary legislation therefore represent a significant step towards harnessing technology to streamline our court processes, and they showcase Hong Kong's approach to e-court proceedings.

Hong Kong recognises the increasing adoption of technology in court proceedings across the world and closely keeps in view the latest development in the international arena. While the use of technology offers tremendous potential, it has also become crucial for us to find ways to effectively balance the use of technological innovations while maintaining the core principles of doing justice and fairness, and the Roundtable provides an excellent forum for such discussions.

Conclusion

Your presence and contributions are invaluable in stimulating innovations in the development of our judicial systems in this post-pandemic age. I am very confident that, by the end of today's event, all of you will have lots of new ideas and inspiration to take home.

I also would like to kindly extend an invitation to all of you to work with us in exploring opportunities for collaboration and capacity building. We welcome ideas and initiatives from different jurisdictions, as they contribute to the collective growth and development of our respective judicial communities.

On this note, thank you very much again, and I wish you all a productive and enlightening roundtable discussion.