

Speech by SJ at Hong Kong Legal Week 2024: Beyond Litigation: The Vibrant Landscape of Alternative Dispute Resolution of Hong Kong (English only)

Following are the opening remarks by the Secretary for Justice, Mr Paul Lam, SC, at Hong Kong Legal Week 2024: Beyond Litigation: The Vibrant Landscape of Alternative Dispute Resolution of Hong Kong today (November 6):

Distinguished guests, ladies and gentlemen,

It is a great pleasure to see you all again on day three of Hong Kong Legal Week 2024. After two days of fruitful discussions on issues relating to international law, today we will put our focus back on Hong Kong, in particular, our alternative dispute resolution (ADR) services. Today's theme is "Beyond Litigation: The Vibrant Landscape of Alternative Dispute Resolution of Hong Kong".

Hong Kong takes pride in our world-class ADR services and legal talents. It is immensely encouraging that in the latest World Competitiveness Yearbook 2024, Hong Kong ranks fifth globally as the most competitive economy, and, most importantly, ranks first in the sub-topics of "Business Legislation" and "International Trade". In the recent "Business Ready 2024 Report" published by the World Bank Group, Hong Kong ranks eighth in the topic of "Dispute Resolution" among the 50 economies covered.

In recent years, the Government has formulated a comprehensive set of policy initiatives, which aim at deepening the mediation culture in Hong Kong. At present, mediation clauses are not mandatory in government contracts but various forms of such clauses can be found in some of them. Resolving disputes through mediation can save public funds, achieve early resolution of disputes and lessen the burden on our courts. There have been a multitude of successful instances of mediation involving the Government, from personal injuries cases, construction works disputes, adverse possession claims to medical negligence cases. Against such a background, it was first mentioned in the Chief Executive's 2023 Policy Address and repeated in "The Chief Executive's 2024 Policy Address" that the Government will take the lead, and incorporate mediation clauses in government contracts, while encouraging private organisations to incorporate similar clauses in their contracts. The key effect of including such clauses is that, if any dispute arises, the parties are obliged to try to resolve it by mediation first, and will resort to arbitration or litigation if, but only if, mediation fails.

Taking the opportunity of today's event with a strong emphasis on mediation, I am very pleased to announce that today, the Government will formally issue a policy statement on the incorporation of mediation clauses

in all government contracts. The policy statement is a confirmation of the Government's commitment to use mediation to resolve contractual disputes. Upon the taking effect of the policy, the Government will incorporate mediation clauses in all future government contracts; and departure from that policy will need to be justified by exceptional circumstances, for example, the existence of an inconsistent statutory provision. Supporting and monitoring mechanisms to be provided by the Department of Justice to other policy bureaux and departments will be put in place to ensure the smooth implementation of this policy. Through this policy, we do not only aim at ensuring that contractual disputes involving the Government may be resolved in a flexible, economical and time-saving manner. We also hope that, with the Government taking the lead, the policy will also encourage the private sectors to follow suit, contributing to the cultivation of a mediation culture in Hong Kong and bringing more harmony and peace to society.

With this policy initiative in mind, I would like to introduce our three panels and distinguished speakers for today's event. The first panel discussion this morning, entitled "Mediation in Action: Harmony and Peace for All", will cover how mediation can be used effectively in various sectors of the community, for instance, in areas of family disputes, civil claims, improving relations between citizens and government departments, and not simply for resolving the disputes but, more importantly, to foster a culture that embraces mutual respect, harmony and inclusiveness.

The Government has always been a staunch supporter of mediation for the community. Since 2009, we have launched the Mediate First Pledge campaign to encourage the use of mediation as the first step to resolve disputes. The Mediate First Pledge is a non-legally binding commitment by pledgees to first explore the use of mediation to resolve disputes before resorting to other means of dispute resolution. At present, over 900 companies, organisations and individuals coming from different sectors have signed the pledge. The biennial Mediation Week and Mediation Conference, coupled with the Mediate First Pledge Event, are our flagship events to explore and promote wider use of mediation to resolve disputes in Hong Kong. The last one was just held a few months ago in May this year.

A very significant event about mediation with global significance took place in Hong Kong on October 17, less than a month ago. On that day, the four-day Fifth Session of the Elaboration of the Convention on the Establishment of The International Organization for Mediation (IOMed) was concluded. Representatives from various countries completed negotiations on the Convention at that session and decided that the signing ceremony for the Convention will be held in Hong Kong in 2025. The IOMed is the first intergovernmental international legal body dedicated to settling international disputes by mediation. With the support of our motherland China and the agreement of other state parties, it was agreed that the headquarters of the International Organization for Mediation will be established in Hong Kong in 2025. This represents a strong vote of confidence in Hong Kong and a clear acknowledgement from the international community of Hong Kong's status as an international dispute resolution centre. I am delighted that Dr Sun Jin, Director-General of the International Organization for Mediation

Preparatory Office, will deliver a keynote speech before lunch today.

Later this afternoon, we will discuss ADR in the context of artificial intelligence (AI). While there is no doubt that the use of AI may enhance the efficiency in resolving disputes, it is vital to ensure that the integrity of the dispute resolution process will not be compromised by the misuse of AI, whether intentionally, negligently or even inadvertently. Our distinguished speakers will consider the opportunities and risks associated with the use of artificial intelligence in ADR. They will also discuss the adoption of lawtech by Hong Kong practitioners, the benefits of lawtech in improving legal services and enhancing access to justice.

Our last panel of today's event is on sports disputes. As stated in "The Chief Executive's 2024 Policy Address", with our thriving development of sports activities and the industry, sports disputes have become increasingly complicated. Hence, Hong Kong will explore establishing a sports dispute resolution system and promoting sports arbitration. In this session, our speakers will share their experiences and insights regarding the demand, application, effectiveness and challenges of sports ADR.

To round up today's events, we will have the 2024 Hong Kong Mediation Lecture at the office of Herbert Smith Freehills this evening. Professor Shahla Ali, through her perspective as a mediator with the World Bank and the Energy Community Panel, would explore the unique challenges and opportunities involved in the use of mediation in deals relating to natural resources, particularly in the Belt and Road Initiative, and how mediation can contribute to ensure that energy and natural resources agreements are environmentally sustainable and foster collaborative approaches.

While today's programmes are focused on mediation, we must not forget that Hong Kong has always been promoting and expanding our arbitration services proactively not just in Hong Kong but also the Mainland and other countries. Two examples would suffice. First, the Hong Kong Arbitration Week was just held between October 21 and 25. Second, the Hong Kong International Arbitration Centre has recently announced its imminent opening of a Beijing office, being its second office in the Mainland since the opening of its Shanghai office back in 2015.

As I mentioned on different occasions previously, Hong Kong is an international legal dispute resolution centre in which numerous options, all of top quality, are made available to the parties to disputes. On this note, let me conclude by wishing you very fruitful exchanges and discussions in today's sessions to come. Thank you very much.