

Speech by SJ at Joint Webinar on the Development of Maritime Regulations in China and its Impact on Shipping (English only)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at the Joint Webinar on the Development of Maritime Regulations in China and its Impact on Shipping today (March 30):

Mr Feng (Deputy Director, Hong Kong Shipowners Association, Mr Gilbert Feng), Professor Wang (Dean, Law School, Shanghai Maritime University, Professor Wang Guohua), Professor Chu (Dean, Law School, Dalian Maritime University, Professor Chu Beiping), Ms Wang (Secretary General, China Maritime Arbitration Commission Hong Kong Arbitration Center, Ms Wang Wenying), ladies and gentlemen,

Good afternoon. It gives me great pleasure to address you at this wonderful event. I thank the Hong Kong Shipowners Association for taking the initiative to organise this event that supports and maintains Hong Kong's edge as a prime hub for international shipping and the provision of maritime services. I am also thankful for their support of the establishment of the Hong Kong Maritime Arbitration Group (HKMAG), which together with the China Maritime Arbitration Commission (CMAC) play an important role in promoting the development and use of maritime arbitration and mediation in Hong Kong, and I am encouraged to see that the HKMAG is also a supporter of today's event.

It is encouraging to see top maritime and shipping academic institutions, standard setters, professional bodies, and arbitral institutions co-organising and sponsoring this event. These industry heavyweights and key opinion leaders will bring considerable practical insights, industry views, and academic excellence to this event, and help develop maritime regulations in China and indeed the world.

The unprecedented COVID-19 disruption has swept across the world, and the global maritime trade has not been exempted. According to the United Nations Conference on Trade and Development's Review of Maritime Transport 2020 (UNCTAD Review), it was estimated that the volume of international maritime trade would drop by 4.1 per cent in 2020. However, the UNCTAD Review also states that with a host of counter-measures undertaken in response to the pandemic, maritime trade is projected to recover in 2021 and expand by 4.8 per cent. According to the UNCTAD Review, Asia remains strong to dominate the global maritime trade, and Hong Kong features in the top five of the list of leading flags of registration in 2020.

This developmental shift in global economic power and international

shipping centres towards Asia is clearly reflected in studies such as the 2020 Xinhua-Baltic International Shipping Centre Development (ISCD) Index, where Hong Kong ranked fourth as an international shipping centre. China also accounted for seven of the world's top 10 container ports with the highest container throughput last year, with three of the seven ports located in the Greater Bay Area (GBA) cities of Hong Kong, Guangzhou, and Shenzhen. These figures not only demonstrate China's maritime power, but also the close connection between the shipping industry in Hong Kong and the GBA.

The recently announced 14th Five-Year Plan continues to support Hong Kong to enhance its status as an international financial, transportation and trade centre, as well as the international legal and dispute resolution hub in the Asia-Pacific region. Hong Kong has also been tasked to extend the scope to the international arena together with other GBA cities, leading to the integration of the GBA development and the Belt and Road Initiative.

With one of the busiest and most efficient port infrastructure connecting to some 420 destinations around the world last year and our diversified talent pool in maritime "software" such as maritime legal services, ship finance and maritime insurance, it is not difficult to see the attractiveness of Hong Kong as an international maritime and shipping centre and prime international maritime services hub in Asia.

Hong Kong's status as a premier international maritime centre in the Asia-Pacific region and beyond has also been consistently recognised. In November 2019, the International Chamber of Shipping launched its first overseas office in Hong Kong. Last year, the Baltic and International Maritime Council (BIMCO) adopted the new BIMCO Law and Arbitration Clause 2020 which includes Hong Kong as one of the four designated arbitration venues, and provides for arbitrations to be conducted in accordance with the HKMAG Terms. These examples recognise both Hong Kong's increased popularity as a centre for dispute resolution, and its position as a leader in international maritime arbitration.

Hong Kong's unique advantages under the principle of "one country, two systems" also cannot be understated. Arrangements resulting out of this innovative policy are also beneficial to the maritime industry. For instance, the Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the HKSAR made between Hong Kong and the Mainland in 2019 allows parties to arbitral proceedings which are seated in Hong Kong and administered by one of the six arbitral institutions to apply to the Mainland courts for interim measures. Hong Kong is the only jurisdiction outside the Mainland where this is possible.

Another arrangement which may be of interest is the amendment to the 1999 Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR by the signing of the Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the HKSAR on November 27, 2020. This Supplemental Arrangement was implemented earlier this month, and allows for a party to apply for preservation measures

before or after the court's acceptance of an application to enforce an arbitral award, and additionally allows parties to make simultaneous applications to both the courts of the Mainland and HKSAR for enforcement of an arbitral award. I am sure that these two measures will make maritime arbitration in Hong Kong more convenient and attractive to the shipping community.

The Hong Kong Government staunchly supports the development of a rule-based global maritime regime. One topic which I note that will be discussed today is the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships. The Hong Kong Convention sets global standards for safe and environmentally-sound ship recycling, and contributes not only to the development of maritime law, but also provides for an environmentally friendly approach to the end of a ship's life cycle. With the latest accession by India to the Hong Kong Convention at the end of 2019, the criteria of requiring ratification by 15 States has been met, but there is still some way to go to meeting the other two requirements – that of the percentage of global gross tonnage and combined ship recycling volume, for the Hong Kong Convention to enter into force. I am sure that with the industry's interest in this topic, there will be lively discussion on the Hong Kong Convention today.

The Department of Justice also takes a strong interest in the development of international maritime law. With the support of the Central People's Government, since 2019 we have been actively taking part in the discussions of the United Nations Commission on International Trade Law (UNCITRAL) Working Group Six on the Judicial Sale of Ships as a member of the Chinese delegation. Given that Mainland China practices civil law and Hong Kong practices common law, the Chinese delegation has the advantage of being able to provide views that will have considered the matter from both the civil law and common law perspectives. Many of the speakers today have supported this project, and I thank them for their support.

To conclude, I am sure that this webinar will be a great success with the informative and insightful discussions from our friends from academia and industry, all top speakers in their fields. I thank you all for sharing with us your expertise and experience, and I wish you all a meaningful and fruitful discussion. Thank you very much.