

Speech by SJ at Law Society of Hong Kong's 4th Belt and Road Conference (English only) (with photo)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at the Law Society of Hong Kong's 4th Belt and Road Conference "Global Recovery and Harmony through the Belt and Road Initiative" under Hong Kong Legal Week 2021 today (November 4):

Mr Liu Guangyuan (Commissioner of the Ministry of Foreign Affairs in the Hong Kong Special Administrative Region (HKSAR)), Mr Liu Chunhua (Director-General of the Department of Law of the Liaison Office of the Central People's Government in the HKSAR), Mr CM Chan (President of the Law Society of Hong Kong), distinguished guests, ladies and gentlemen,

It gives me great pleasure to join you today at the Law Society's 4th Belt and Road Conference. It is also particularly worthy of mention that this is the first time that the Law Society has brought this very important event to join part of the Hong Kong Legal Week event. And I think this is a clear manifestation of the spirit of the Belt and Road Initiative – a public-private partnership. And I hope that this will continue.

The Belt and Road Initiative is a grand vision to build a community with a shared future for mankind, which is the world's largest platform for open and inclusive international co-operation. Over the past eight years, co-operation agreements were signed with 140 countries (Note 1) under the Belt and Road Initiative.

The Belt and Road Initiative is compatible with the principles of the United Nations Charter, in particular in affirming the equal rights of all nations. The spirit behind the Belt and Road Initiative can be encapsulated as follows: the promotion of win-win co-operation, common development and prosperity, peace and co-operation, openness and inclusiveness, and mutual understanding and trust. These are the very aim of the United Nations 2030 Agenda for Sustainable Development (2030 Agenda), providing a shared blueprint for mankind to achieving a better and more sustainable future. The 17 Sustainable Development Goals (SDGs) under the 2030 Agenda aim to address global challenges and their implementation requires active co-operation among different stakeholders in the global, regional and national levels. China has taken a proactive role in integrating the implementation of SDGs with its own national development strategy, translating each target of the 17 SDGs into action plans with the overarching approach of "innovative, co-ordinated, green, open and shared development".

The SDGs are interconnected with the rule of law being a pillar for its successful implementation. In particular, Goal 16 aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions

at all levels.

In response to the 2030 Agenda, especially Goal 16, the Department of Justice (DoJ) officially launched a 10-year visionary initiative, Vision 2030 for Rule of Law (Vision 2030) in 2020, aiming to build and maintain a fair and rule-based society underpinned by the rule of law through collaboration with stakeholders towards sustainable development for all. "2030" is referred to in the initiative to demonstrate our support for the 2030 Agenda. Under Vision 2030, there have been various capacity-building events for the international and local community covering a wide array of topics, including today's conference. Besides, there will be a Rule of Law Signature Engagement Event entitled "A Journey of Transformation for a Sustainable Future" tomorrow, which will introduce Vision 2030's initiatives that aim to facilitate study on the proper understanding of how the rule of law is practised and how to bring into play the uniqueness of different jurisdictions: including culture, socio-economic elements and legal traditions. Please do join us and participate in the discussions tomorrow.

I. Belt and Road Initiative as the driving force for post-COVID recovery

COVID-19 brought tremendous challenges to us. Fortunately, global economic recovery is now gaining momentum. As President Xi remarked, "The right approach to tackling global crises and realising long-term development is through greater connectivity, openness, and inclusiveness (Note 2)." The Belt and Road Initiative is an all-inclusive initiative driving the world to recover amidst COVID-19. In the first half of 2020, China-Europe freight trips rose 36 per cent, transporting 3.67 million pieces of anti-pandemic materials to European countries. Overseas Chinese workers are also working with their local counterparts to expedite the construction of worldwide landmark projects. The Belt and Road Initiative is also crucial in combating the pandemic and stabilising global supply and industrial chains.

The Digital Silk Road is a key facet to the Belt and Road Initiative in facilitating global recovery, which aims to improve access to high-speed Internet, lower market barriers to international e-commerce, and minimise the digital divide, all of which are gaining importance in the post-COVID era. In May 2020, Premier Li promised to accelerate the construction of 5G networks and data centres. China has also taken a leading role with 6G's patent applications, accounting for 40.3 per cent of the world total, outweighing the US and Japan (Note 3).

II. Belt and Road Initiative as the driving force in creating a fair, rule-based and harmonious international order

The Belt and Road Initiative facilitates the international promotion of the rule of law as well as peaceful and inclusive societies for sustainable development. We hope that Vision 2030, which aims to reach out to both the local and international communities, striving to contribute to the sustainable development of inclusive, sustainable and fair societies, will be able to complement this national policy.

Since its inception, the Belt and Road Initiative has always followed

the principle of "extensive consultation, joint contribution and shared benefits", which provides a platform for international co-operation characterised by equality, mutual benefit, openness, inclusiveness and transparency; paving the way for international legal co-operation.

Efforts had been actively made by different stakeholders of the Belt and Road Initiative to effectively resolve trade and investment disputes, with an aim to build a sound, fair and inclusive business environment for the Belt and Road in accordance with the rule of law.

III. The unique role of Hong Kong

Both the 14th Five-Year Plan and the Greater Bay Area (Guangdong-Hong Kong-Macao Greater Bay Area) Outline Development Plan explicitly support Hong Kong as the centre for international legal and dispute resolution services in the Asia-Pacific region, demonstrating staunch support from the Central People's Government.

This is complemented by Hong Kong's mature and robust legal system and legal infrastructure, together with its independent judiciary, a strong culture of rule of law as well as its legal and dispute resolution talents. Hong Kong is the only common law jurisdiction within China. Hong Kong's common law system has a history of 150 years with ample legal precedents. And our cases are frequently cited in overseas jurisprudence, demonstrating the quality of our judiciary and legal system.

Hong Kong has been continuously ranked among the top five preferred seats for arbitration globally since 2015 according to the International Arbitration Surveys conducted by Queen Mary University of London. This year, Hong Kong is ranked as the third most preferred seat for arbitration, surpassing Paris.

Hong Kong is also the world's leading dealmaking hub, being ranked as the world's top IPO (initial public offering) venue in seven of the past 12 years. In the securities market, the average daily turnover for the first six months of 2021 was HK\$188.2 billion, representing an increase of 60 per cent when compared with HK\$117.5 billion for the same period in 2020. Additionally, there has been a steady rise in total deposits in our banking system, which had reached HK\$14.86 trillion by the end of May 2021.

The pandemic has caused significant disruptions to the international supply chain and the loss of business due to social distancing and other anti-epidemic measures. When face-to-face dispute resolution has been rendered almost impossible under the pandemic, there is a pressing need for businesses, especially micro, small and medium-sized enterprises, to have their disputes resolved in a time-efficient and cost-effective manner.

eBRAM Centre was established in Hong Kong in 2018 to develop a platform for online dispute resolution, ODR, and dealmaking, leveraging on the latest technologies including artificial intelligence, blockchain etc, aiming to provide a one-stop platform for international commercial parties. eBRAM Centre recently launched the APEC (Asia-Pacific Economic Cooperation) Online

Dispute Resolution procedural rules tailor-made for the APEC Collaborative Framework for ODR of Cross-Border Business-to-Business Disputes, which aims to provide a fast and affordable resort to commercial disputes among the APEC economies to micro, small, and medium enterprises through the use of electronic communications and other information technology. eBRAM Centre will seek to become an ODR service provider for APEC economies under the APEC ODR Framework.

Recently, the Inclusive Global Legal Innovation Platform on ODR, iGLIP on ODR, which brings together experts from around the world, was set up in the Hong Kong Legal Hub to facilitate studies on ODR-related issues. It is expected to see a rise of future co-operations in promoting, raising awareness and capacity-building in ODR. Indeed, the pandemic acts as a catalyst in speeding up the development of reliable, efficient and cost-effective ODR platforms.

IV. Immense business opportunities

Under the principle of "one country, two systems" and the Belt and Road Initiative, as an international legal, dealmaking and dispute resolution hub, there are immense opportunities for Hong Kong.

The Greater Bay Area is significant for the Belt and Road Initiative, the inaugural GBA Legal Professional Examination was successfully held in July 2021. After passing the examination and obtaining the relevant practice certificate, eligible Hong Kong legal practitioners would be allowed to provide legal services in the nine Mainland municipalities in the Greater Bay Area on specified civil and commercial matters to which the Mainland laws apply. These legal practitioners will be able to provide comprehensive legal services to enterprises investing in the Greater Bay Area.

Besides, the initiative which allows wholly owned Hong Kong enterprises, WOKEs, to adopt Hong Kong law had received a major breakthrough in Qianhai. Since October 2020, over 11 000 WOKEs and other foreign-owned enterprises registered in Qianhai can choose Hong Kong law as the governing law when entering into civil and commercial contracts in the absence of "foreign-related elements". With the expansion of Qianhai, more WOKEs can opt for Hong Kong law. The DoJ is actively seeking the Central People's Government's support in extending the measure to Shenzhen and hopefully the entire Greater Bay Area.

With the Central People's Government's support, four instruments were recently concluded. One being the tripartite memorandum of co-operation amongst the State-owned Assets Supervision and Administration Commission of the State Council, SASAC in short, and the Ministry of Commerce. It establishes an exchange platform in the form of roundtable discussions amongst members of the DoJ's Standing Panel of Legal Experts and representatives of state-owned enterprises and major private enterprises in the Mainland to discuss in-depth different legal issues including those related to the Belt and Road Initiative, thereby exporting our legal services to facilitate Mainland enterprises' trade and investment abroad.

There are also two specific arrangements worthy of mention. In the area of insolvency and debt restructuring, the arrangement concerning mutual recognition of and assistance to insolvency proceedings between the courts of Mainland and Hong Kong allows Hong Kong liquidators and provisional liquidators to apply to designated courts in the Mainland for recognition and assistance. Likewise, the Mainland's bankruptcy administrators may apply to Hong Kong's High Court for recognition of the Mainland's bankruptcy proceedings according to common law principles.

In the interim measures arrangement signed with the Mainland in 2019, parties to arbitral proceedings seated in Hong Kong and administered by one of the six arbitral institutions would be able to apply to the Mainland courts for interim measures. Hong Kong is the first and only jurisdiction in the world outside the Mainland where this is possible.

V. Conclusion

Ladies and gentlemen, may I conclude by thanking the Law Society of Hong Kong for arranging this conference and to bring together such wonderful speakers. I am sure the conference will provide lots of food for thought and inspiration to all.

Thank you very much.

Note 1: www.xinhuanet.com/english/2021-06/23/c_1310024161.htm

Note 2: Written message from President Xi Jinping to the High-level Video Conference on Belt and Road International Cooperation, June 18, 2020.

Note 3: global.chinadaily.com.cn/a/202109/17/WS6144094fa310e0e3a6822499.html

