

Speech by SJ at “Why Use Hong Kong Law” webinar (English only) (with photo)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at the "Why Use Hong Kong Law" webinar today (May 31):

Mr Justice Poon (the Chief Judge of the High Court), distinguished panellists, ladies and gentlemen,

I am delighted to welcome you to the third edition of the "Why Hong Kong" series – "Why Use Hong Kong Law".

Hong Kong is renowned for having a sound and mature legal system, supported by an independent judiciary and a strong rule of law tradition. Hong Kong is the only jurisdiction within China practicing common law, as entrenched in the Basic Law. The common law system in Hong Kong has a history of 150 years with ample precedents. Hong Kong cases are frequently cited in overseas jurisprudence, reflecting the quality of our judiciary and legal system.

The respect our independent judiciary enjoys is evidenced and supported by eminent judges from other common law jurisdictions sitting on our highest court, the Court of Final Appeal. As Lord Sumption, a former Judge of the United Kingdom Supreme Court and a Non-Permanent Justice of the Hong Kong Court of Final Appeal remarked: "the presence of foreign judges on Hong Kong's Court of Final Appeal is one of the most striking pointers to the standing of Hong Kong as a world city." He further observed that the permanent judiciary of Hong Kong is completely committed to judicial independence and the rule of law.

Additionally, Hong Kong is home to legal, deal making and dispute resolution professionals from all over the world, symbolising the international connectivity of the profession. As of March 2021, there are 1 540 registered foreign lawyers in Hong Kong from 33 jurisdictions and 86 registered foreign law firms.

The strength of Hong Kong law, especially in the civil and commercial fields, is internationally recognised. In the World Competitiveness Yearbook 2020, Hong Kong's ranking remained first globally in the "Business legislation" sub-factor and in the indicator "Legal and regulatory framework".

We must however not be complacent. Riding on the "one country, two systems" policy, we establish unique arrangements with Mainland China that no other jurisdiction in the world would be otherwise entitled to.

In arbitration, under the interim measures arrangement and the

supplemental arrangement on the enforcement of arbitral awards we have concluded with the Mainland, parties to Hong Kong arbitrations can seek protection measures from the Mainland courts such as the freezing of assets and injunction during the arbitration, and at the start of the court proceedings for recognition and enforcement of the Hong Kong awards. These arrangements are unique to Hong Kong.

By an arrangement with the Mainland on the reciprocal recognition and enforcement of civil and commercial judgments, Hong Kong court judgments will be enforceable in the Mainland. Going one step further, beyond what the Hague Judgments Convention currently provides, this unique arrangement additionally includes mutual enforcement of certain intellectual property judgments.

The most recent unique arrangement arising out of the "one country, two systems" policy is in the area of insolvency and restructuring. Under a new co-operation mechanism between Hong Kong and the Mainland, liquidators and provisional liquidators from Hong Kong may apply to a court in Shanghai, Xiamen and Shenzhen for recognition and assistance. On the other hand, bankruptcy administrators from the Mainland may continue to apply to our High Court for recognition and assistance according to the existing common law principles in Hong Kong. Hong Kong is the only jurisdiction to establish such a unique co-operation mechanism with the Mainland in this area.

On the domestic front, our laws are continuously updated to attract businesses. One of the strongest infrastructures in Hong Kong is its financial system and as you will hear later, we have recently passed the Limited Partnership Fund Ordinance to introduce a new entity type for private equity and venture capital funds for Hong Kong. Further amendments have been introduced to the Inland Revenue Ordinance to allow for tax concessions for carried interest of private equity funds operating in Hong Kong.

Ladies and gentlemen, may I conclude by thanking the organisers and speakers and sponsors for their support, and hope that you will see more clearly the benefits of choosing Hong Kong law as the governing law for your transactions. Thank you.

