

Opening Remarks of Ms Teresa Cheng, SC
Meeting of the Panel on Administration of Justice
and Legal Services of the Legislative Council
2018 Policy Initiatives of the Department of Justice
29 October 2018 (Monday)

Chairman,

The Hong Kong Special Administrative Region (“HKSAR”) Government endeavours to implement the “One Country, Two Systems” principle, uphold the Basic Law and safeguard the rule of law. And the economic success of the HKSAR is built on our adherence to and respect for the rule of law. We will continue to step up our efforts in consolidating HKSAR’s status as a leading centre for international legal and dispute resolution services in the Asia-Pacific region, and enhancing our reputation in the international legal, dispute resolution and business arenas, with a view to seizing the opportunities arising from the Belt and Road Initiative and the Guangdong-Hong Kong-Macao Bay Area (“Greater Bay Area”) development.

2. In the paper submitted earlier to this Panel, the Department of Justice (“DoJ”) has set out in detail our 2018 Policy Initiatives. While this is the first time that I participated in the preparation of the Policy Initiatives under the Policy Address, I have actually been, since assuming

office earlier this year, taking forward with my colleagues the work of DoJ in various areas, including the following :

- (a) **On communicating with the profession**, we have established a platform of communication with the two legal professional bodies. Since the beginning of this year, I have been meeting with the Council of the Hong Kong Bar Association and the Council of the Law Society of Hong Kong respectively around once every three months to exchange views on issues of common interest.

- (b) **On communicating with young people**, we have also met with young lawyers to exchange views, learning about their work and sharing ideas regarding their opportunities and challenges in the Mainland and the Greater Bay Area as well as the possibility of arranging internships or placements in international organisations. DoJ will continue to provide assistance to young lawyers in expanding their international exposure and enhancing their professional knowledge.

- (c) **On developing legal services**, we will continue to enhance Hong Kong's position as a centre for international legal and dispute resolution services in the Asia-Pacific region. In this regard, we have been actively advocating **Hong Kong's role as a deal maker**

and dispute resolver so as to promote legal services of a different nature that the city may provide to local, Mainland, regional and international enterprises at all stages of commercial transactions. In addition, we will continue to enhance the overall co-ordination of DoJ's work concerning dispute resolution, and step up promotional work, so that enterprises in the Mainland and in jurisdictions along the Belt and Road will use these professional services of Hong Kong in their business development. Promotional events organised recently include: the conference entitled "Hong Kong Forum: 60th Anniversary of New York Convention" which DoJ co-organised with the United Nations Commission on International Trade Law ("UNCITRAL") and the Asian Academy of International Law ("AAIL") on 20 September 2018, and the first International Chamber of Commerce International Commercial Mediation Competition – Hong Kong which DoJ co-organised with the International Chamber of Commerce Hong Kong from 12 to 15 October 2018.

- (d) Regarding **export of legal services**, we have been actively conducting promotional activities overseas and in the Mainland. While promoting Hong Kong's unique advantage under "One Country, Two Systems", we have also taken the opportunity to dispel any possible misconceptions about Hong Kong's situation so that

members of the political, business and legal sectors outside Hong Kong (particularly overseas) may have a deeper and more accurate understanding of Hong Kong's rule of law and business environment, and also understand Hong Kong's edge as a legal hub for deal making and dispute resolution.

- (e) Moreover, DoJ is also committed to establishing **Hong Kong as a law-related capacity building centre** by working with international, regional and local bodies to organise or co-organise various types of conferences and training programmes. This will not only ensure that the professional knowledge of Hong Kong's legal practitioners will progress over time, but also enable foreign legal practitioners attending these conferences or programmes to have a better understanding of Hong Kong's international legal and dispute resolution services, so that there could be better likelihood of them choosing to use Hong Kong's relevant services in future.
- (f) As regards hardware development, DoJ is pressing ahead with the **Legal Hub programme**. It is expected that space will start to be provided to international, regional and local law-related organisations commencing mid next year. This programme helps attract more reputable international legal services and dispute resolution institutions to establish their presence in Hong Kong.

In addition, the construction of the **West Kowloon Mediation Centre** in the vicinity of the West Kowloon Law Courts Building for the Pilot Mediation Scheme for Small Claims Tribunal cases has been completed, and DoJ has appointed a non-profit making independent coordinator which will soon commence operating the Pilot Mediation Scheme and the West Kowloon Mediation Centre.

(g) On **the development of Lawtech**, we encourage the legal sector to apply technology in the provision of legal services and support it to develop online dispute resolution services. I will explain further shortly.

3. In 2018/19, my colleagues and I will also further take forward the following initiatives.

4. On **promoting Hong Kong's international legal and dispute resolution services**, we will continue to seize the opportunities arising from the Belt and Road Initiative and the Greater Bay Area development, strengthen our legal infrastructure as well as legal cooperation with the Mainland and boost cooperation with international organisations in capacity building work.

(a) We will further promote an e-arbitration and e-mediation platform which is currently under development by a

non-governmental organization. The platform, which is expected to have smart contract features, will provide the Belt and Road, Greater Bay Area and other projects with secure, efficient and cost-effective online dispute resolution services. Parties in any part of the world may make use of the platform to resolve disputes.

- (b) We will continue to study the feasibility of establishing a Belt and Road dispute resolution centre in Hong Kong, including setting up a credible dispute resolution body that is sensitive to cultural diversity through collaboration of various parties, as well as formulating a set of dispute resolution rules for the resolution of disputes arising from Belt and Road projects which will be manifestly international and multilingual. A Belt and Road dispute resolution centre in Hong Kong would overcome geographical distances and language barriers that exist between the Belt and Road economies.
- (c) With the introduction of the Mediation Mechanism for Investment Disputes in the Investment Agreement made under CEPA, Hong Kong will provide training for mediators, legal practitioners and government officials in handling international investment disputes, with a view to building up a team of international investment dispute mediators in Hong Kong and Asia to support resolution of investment disputes through mediation. DoJ,

together with the International Centre for Settlement of Investment Disputes (ICSID) of the World Bank Group, has just successfully organised Asia's first Investment Law and Investor-State Mediator Training Course in Hong Kong from 15 to 21 October 2018, and the feedback was very positive. Participants came from 18 countries, including local and overseas mediators, as well as government officials from Asia and Africa.

- (d) DoJ will continue to follow up on discussions with Mainland authorities with a view to establishing a regular platform to facilitate exchanges between Hong Kong legal professionals and Mainland enterprises, exploring development and cooperation opportunities as well as legal risks and other issues of concern when Mainland enterprises "go global". Relevant Mainland authorities have agreed in principle to enter into co-operation agreements with DoJ for the creation of a regular exchange platform to regularise exchanges between Mainland enterprises (including state-owned enterprises) and Hong Kong's legal sector. This will further facilitate Hong Kong's legal sector to promote Hong Kong's international legal and dispute resolution services to Mainland enterprises.
- (e) To promote Hong Kong's international legal and dispute resolution services, as well as to facilitate Hong Kong's

development as a regional capacity building centre for international law and dispute resolution, we will continue to organise and co-organise international conferences and training programmes with international and local bodies.

- (i) Major events which DoJ holds or participates in regularly include: UNCITRAL Asia Pacific Judicial Summit, Hong Kong week held under the China-AALCO (Asian-African Legal Consultative Organization) Exchange and Research Program on International Law, Annual Colloquium of AAIL, Mediation Week, Criminal Law Conference, legal and dispute resolution services seminars held during the Belt and Road Summit and the Business of IP Asia Forum, as well as Hong Kong Arbitration Week of the Hong Kong International Arbitration Centre.

- (ii) Major events which DoJ will organise or participate in 2019 include: UNCITRAL Asia Pacific Judicial Summit, International Colloquium on Public-Private Partnerships co-organised with UNCITRAL and AAIL, an expert seminar on Investor-State Dispute Settlement Reform co-organised with AAIL, International Insolvency Institute Annual Conference, LAWASIA Annual Conference, etc.

In addition, Hong Kong has succeeded in its bid this year to host the International Council for Commercial Arbitration (ICCA) Congress in 2022. DoJ will provide strong support to the holding of the event.

- (f) DoJ will continue to actively participate in the work of the “Friends of the Chair on Strengthening Economic and Legal Infrastructure” under the Economic Committee of APEC to further promote Hong Kong’s competitive edge in respect of online dispute resolution in the Asia-Pacific region and beyond.

5. Regarding the enhancement of legal cooperation with the Mainland in civil and commercial matters, we will devote our ongoing efforts mainly to the following two areas this year:

- (a) We will seek early introduction of a bill to implement the Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the Hong Kong Special Administrative Region. In March this year, we briefed this Panel on the main proposed contents of the Bill and had Members’ support. Legislative proposals for consultation with stakeholders are being prepared, with a view to introducing the

legislative proposals into the Legislative Council in mid-2019.

- (b) We are actively taking forward discussions with the relevant stakeholders on a proposed arrangement with the Mainland on more general reciprocal recognition and enforcement of judgments in civil and commercial matters, with a view to widening the scope for reciprocal recognition and enforcement of judgments in civil and commercial matters, thereby offering better legal protection to the relevant parties.

6. On **refining our legal system and related infrastructure**, we will work on three major areas.

- (a) The **Prosecutions Division** will continue to uphold the letter and spirit of Article 63 of the Basic Law and handle all criminal prosecutions independently in a professional, fair and impartial manner in accordance with the prevailing prosecution policy. In the coming year, apart from carrying on with the training, exchange and promotional activities already in place, we will also actively promote and expand the existing Understudy Arrangement for less-experienced barristers in prosecution cases so as to provide more opportunities for them to gain precious experience and skills in case handling.

- (b) In parallel, with a view to implementing the Department's measures for grooming talent, the Civil Division is also actively exploring the introduction of an understudy programme for less-experienced barristers to undertake suitable civil work, and will continue to identify suitable areas of civil work for these barristers, so as to provide them with more training opportunities and enhance their exposure.

- (c) Moreover, we have begun revamping the DoJ website since mid this year to further enhance its structure and content. For instance, we provide on the website summaries of judicial decisions in respect of cases which the media or the public is more interested in.

7. On **law drafting and publishing**, following the launch of the Hong Kong e-Legislation ("HKeL") in February last year, we have introduced various enhancements to continuously improve the system and facilitate more speedy and convenient access to legislation. Apart from continuing to enhance the HKeL system and verify the legislation it contains, we will also prepare for publication on the website of DoJ combined English-Chinese and Chinese-English Glossaries of Legal Terms, each consisting of glossaries compiled by the five legal divisions of DoJ, so as to further promote the development of legal bilingualism.

8. With regard to **law reform**, we will continue to press ahead with the implementation or study of the Law Reform Commission's recommendations in its reports on various legal topics, including hearsay evidence in criminal proceedings, enduring powers of attorney with regard to personal care, class actions, criteria for service as jurors, and double jeopardy. Moreover, we will continue to provide support for the Inter-departmental Working Group on Gender Recognition, which is expected to report next year on the results of last year's public consultation on gender recognition issues and the proposed way forward. We will take forward the next stage of work subject to the content of the report.

9. I hope the Panel and stakeholders will continue to support DoJ in our work ahead as I have just highlighted. My colleagues and I will be happy to answer your questions.

Thank you.