

(English translation)

Opening Remarks of Secretary for Justice at the Meeting of the Panel on Administration of Justice and Legal Services of the Legislative Council on Policy Initiatives of the Department of Justice in the Chief Executive's 2021 Policy Address

The following is the opening remarks of Ms Teresa Cheng, SC, Secretary for Justice at the meeting of the Panel on Administration of Justice and Legal Services of the Legislative Council today (Oct 11) on Policy Initiatives of the Department of Justice (DoJ) in the Chief Executive's 2021 Policy Address:

Chairman and Members,

As the centre for international legal, deal-making and dispute resolution services in the Asia-Pacific region supported by a pool of experienced professionals in legal and dispute resolution services, and the only common law jurisdiction in China with a well-established legal system based upon the rule of law and a long and rich common law heritage, Hong Kong is well positioned to leverage on the unlimited opportunities arising from the National 14th Five-Year Plan, the development of the Guangdong-Hong Kong-Macao Greater Bay Area (GBA) and the Qianhai Plan.

The new policy initiatives of DoJ set out in the 2021 Policy Address and its other key new initiatives are detailed in the paper submitted earlier to this Panel. Today I will focus on four key work areas of DoJ, namely (1) complementing the national policy: developing Hong Kong as the centre for international legal and dispute resolution services in the Asia-Pacific region; (2) promoting a proper understanding of the rule of law: continuing to roll out Vision 2030 for Rule of Law programmes; (3) enhancing a sense of belonging to our country: strengthening education on the Constitution, the Basic Law and national security; and (4) building on our strengths: attracting legal talent.

(1) Complementing the national policy: developing Hong Kong as the centre for international legal and dispute resolution services in the Asia-Pacific region

Hong Kong has been at the forefront of international rankings related to the rule of law and judicial independence and has been able to maintain a high ranking and improve in related indicators (note 1). Our rule of law provides reassurance to Mainland and international investors when conducting business transactions and resolving commercial disputes in Hong Kong.

DoJ has achieved significant breakthroughs recently in judicial assistance in civil and commercial matters with the Mainland.

To implement the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters signed in 2019, DoJ is actively preparing a bill and will seek to consult the public as soon as practicable. The Arrangement establishes a more comprehensive and clearer mechanism for reciprocal recognition and enforcement of civil and commercial judgments between both places.

The HKSAR Government and the Supreme People's Court (SPC) signed the Record of Meeting on Mutual Recognition of and Assistance to Bankruptcy (Insolvency) Proceedings (Record of Meeting) (note 2) in May this year, which establishes a new cooperation mechanism for cross-boundary corporate insolvency and debt restructuring matters between both places. In addition, the Supplemental Arrangement Concerning Arbitral Awards (note 3) signed in November 2020 and the Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases signed in June 2017 have been implemented successively through local legislation in May this year.

To help local legal sector further tap into the Mainland market to meet the need for legal and dispute resolution services in the GBA, DoJ introduced an array of initiatives, including the inaugural Guangdong-Hong Kong-Macao Greater Bay Area Legal Professional Examination which has recently released its results. DoJ and the SPC signed the Record of Meeting to arrange Mainland practical legal training for Hong Kong legal practitioners who have passed the examination.

A higher level of opening up in legal matters has been clearly stated in the Qianhai Plan, including measures such as exploring ways to improve the mechanism for wholly-owned Hong Kong enterprises to adopt Hong Kong law and choose for arbitration to be seated in Hong Kong, identifying means to

establish a new mechanism for civil and commercial judicial assistance and exchanges, and deepening the reform of the partnership association mechanism. I have met with the legal sector earlier to listen to their views on how to better leverage on the opportunities arising from the Qianhai Plan.

In respect of international exchange and cooperation, DoJ will continue to facilitate international legal and dispute resolution institutions to establish their presence in the Hong Kong Legal Hub and is actively exploring the feasibility of establishing an arbitration centre in Hong Kong with other institutions, including the Asian-African Legal Consultative Organization (AALCO).

The HKSAR Government has all along been securing more opportunities for Hong Kong's legal professionals in both the public and private sectors to participate in legal matters involving foreign parties. With the staunch support of the Office of the Commissioner of the Ministry of Foreign Affairs in the HKSAR, the secondment of five young talents from the HKSAR to three renowned international legal organisations were arranged. DoJ will continue to explore more secondment programmes with other renowned international organisations to enhance talent training and capacity building.

DoJ is also actively targeting decision-making meetings of international organisations to be hosted in Hong Kong and has secured the hosting of the AALCO Annual Session and an inter-sessional meeting of the United Nations Commission on International Trade Law (UNCITRAL) Working Group III in Hong Kong at the end of this year.

DoJ will fully capitalise on the characteristics of “one country, two systems and three jurisdictions” in the GBA and continue to explore with relevant departments the legal regulatory interface among different jurisdictions within the GBA with a view to devising mutually recognised standards and mechanisms to address further concerns of the sector (such as intellectual property and e-commerce) for joint protection of business interests.

The Guangdong-Hong Kong-Macao GBA Legal Departments Joint Conference (Joint Conference) endorsed the working proposal of the GBA Mediation Platform last year. The accreditation standards and the code of conduct best practices for mediators in the GBA are expected to be reviewed and endorsed at the third Joint Conference by the end of this year.

The Sale of Goods (United Nations Convention) Ordinance was passed by the Legislative Council in September and will be put into operation after six to nine months to allow sufficient preparation time for the relevant sectors.

(2) Promoting a proper understanding of the rule of law: continuing to roll out Vision 2030 for Rule of Law programmes

The rule of law is a core value of Hong Kong and the cornerstone of its success. To enhance the community's proper understanding and practice of the rule of law, DoJ launched the 10-year initiative Vision 2030 for Rule of Law last year. A task force with memberships of local and international renowned experts has also been set up to advise the Government.

To effectively assess the rule of law and facilitate research and capability building, DoJ is actively conducting research and collating objective data relevant to the rule of law, and has been taking active steps to prepare for the setting up of a rule of law database with objective data. The database will be launched during Hong Kong Legal Week to be held from 1 to 5 November this year. Other focal events of this year's Hong Kong Legal Week include UNCITRAL Asia Pacific Judicial Summit, seminars relating to the rule of law and discussions on LawTech matters.

On local rule of law education, we have launched the "3Es" projects, namely "Engagement", "Empowerment" and "Enrichment", targeting members of the public, youth and professionals.

Following the launch of "Studio DoJ" and the touring of drama performances to primary schools, we organised the International Youth Legal Exchange Conference 2021 in September this year. A booklet entitled Vision 2030-Empowerment has also been published recently, and various activities including "Rule of Law Journey", a law quiz competition for primary schools and a short video competition for secondary school students have been organised as a continued effort to instil proper understanding of the rule of law and law-abiding awareness in our primary and secondary school students in an easily understandable manner.

(3) Enhancing a sense of belonging to our country: strengthening education on the Constitution, the Basic Law and national security

The quality of rule of law education is crucial to the enhancement of the community's proper understanding and practice of the rule of law. Under the "Empowerment" projects, DoJ has launched the "Rule of Law Enlightenment" Programme and teacher training programmes for primary and secondary school students and teachers, and assisted in the preparation of teaching materials on the rule of law and the Basic Law.

To strengthen the promotion of the Constitution and the Basic Law and enable the public to have a proper understanding of the same, following the Basic Law 30th Anniversary Legal Summit with the theme "Back to Basics" held in November 2020, DoJ plans to organise another conference on the Basic Law in April next year and publish the "Basic Law: Selected Drafting Materials and Significant Cases".

As for education on the Hong Kong National Security Law (NSL), following the National Security Law Legal Forum - Security Brings Prosperity held in July this year, DoJ plans to organise another legal forum on the NSL to enhance the community's understanding and awareness of the NSL.

(4) Building on our strengths: attracting legal talent

A key strength of Hong Kong as a centre for international legal and dispute resolution services is its extensive network of local and international legal talent. To attract and retain top legal talent, DoJ will adjust the Talent List to cover professionals with legal and dispute resolution expertise, relax the qualification requirements for handling international commercial disputes, and clarify the requirement for supporting documents for transactional lawyers. Moreover, DoJ will regularise the Pilot Scheme on Facilitation for Persons Participating in Arbitral Proceedings in Hong Kong to provide facilitation for more eligible non-Hong Kong residents participating in arbitral proceedings in Hong Kong on a short-term basis.

Conclusion

I look to the Panel for support for DoJ's key new initiatives outlined just now and the policy initiatives set out in the paper. My colleagues and I will be happy to answer your questions.

Thank you, Chairman and Members.

Note 1: Extracted from the Report on Hong Kong's Business Environment: A Place with Unique Advantages and Unlimited Opportunities, released on 27 September 2021 (Page 55)

Note 2: Record of Meeting on Mutual Recognition of and Assistance to Bankruptcy (Insolvency) Proceedings between the Courts of the Mainland and of the Hong Kong Special Administrative Region

Note 3: Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region

Ends/Monday, October 11, 2021