

Speech by SJ at Global Forum on International Mediation (English only)

Following are the welcoming remarks by the Secretary for Justice, Mr Paul Lam, SC, at the Global Forum on International Mediation today (May 30):

Your Excellencies, distinguished guests, ladies and gentlemen,

It is with great pleasure that I welcome you all to the inaugural Global Forum on International Mediation.

This morning, altogether 32 state parties including China signed the Convention on the Establishment of the International Organization for Mediation. This is undoubtedly a historic event since the International Organization for Mediation (IOMed) will be the first international intergovernmental organisation devoted to the use of mediation in resolving international disputes. We all hope that the Convention will enter into force as soon as practicable.

While the Convention has already set out the framework and the essential terms concerning the operation of the IOMed, the state parties would need to consider and agree on further details to ensure the smooth operation of the Convention. To ensure and attract more state parties' support and participation, it is also necessary to raise people's awareness of mediation as a means of resolving international disputes and to enhance the capacity to use it in practice. In these circumstances, it is most pertinent to hold this Global Forum on International Mediation immediately after the signing ceremony of the Convention.

The IOMed will provide mediation services for the settlement of the following three types of international disputes: disputes between states, disputes between a state and a national of another state and international commercial disputes between private entities. This afternoon, we are extremely honoured and privileged to have a distinguished panel of moderators and speakers, who will share their views in two panels: the first one will focus on mediation of disputes among states, whereas the second session will focus on mediation of international investment and commercial disputes. Our distinguished moderators and speakers consist of leaders or former leaders of state parties, as well as from international organisations and multilateral development banks; and also experts and other key stakeholders in international mediation.

To set the scene, I would like to highlight the significance of mediation in resolving international disputes and the important role that Hong Kong will play in the operation of the IOMed.

Put simply, mediation is a process whereby the parties in dispute attempt to reach a mutually acceptable and amicable settlement of their

dispute on a voluntary basis with the assistance of a third party who may facilitate a solution between the parties to the dispute but without the power to impose it upon the parties. As compared to traditional means of resolving international disputes such as litigation or arbitration, mediation is clearly more forward-looking, constructive and conducive to repairing the relationship between the two sides.

It is well-known that peaceful settlement of international disputes is one of the most fundamental principles of international law and international relations. The use of mediation as a means to settle international disputes peacefully is expressly mentioned in Article 33 of the Charter of the United Nations, and also the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations passed by the United Nations General Assembly in 1970.

The United Nations General Assembly has passed altogether four resolutions on "Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution" on June 22, 2011, September 13, 2012, July 31, 2014, and September 9, 2016, respectively. In the most recent one dated September 9, 2016, the UN General Assembly recognised mediation as an efficient and cost-effective tool in the peaceful settlement of disputes, conflict prevention and resolution, and welcomed its increased use. It acknowledged the importance of mediation in the peaceful settlement of disputes, conflict prevention and resolution and in seeking long-term political solutions for sustaining peace, and recognised that mediation needs to be further and more effectively used.

On the other hand, the role of mediation in resolving international commercial and investment disputes between a state and a foreign national or between private entities from different countries is also well acknowledged and recognised. As early as 1980, the United Nations Commission on International Trade Law (UNCITRAL) developed and adopted the UNCITRAL Mediation Rules, which were subsequently revised in 2021. And more recently, in 2024, UNCITRAL published the Guidelines on Mediation for International Investment Disputes. The United Nations Convention on International Settlement Agreements Resulting from Mediation, which entered into force in September 2020, offered another example of international efforts in promoting mediation.

While mediation may be conducted on an ad hoc basis, there are clear advantages to conducting mediation with institutional supports. Institutional supports may include, for example, guidance on procedural aspects; assistance in communicating with the other party; identification of a pool of mediators and assistance in their selection and appointment; assistance in the logistic aspects of mediation including the organisation of in-person and remote meetings; as well as providing for data protection and cybersecurity measures.

In the circumstances, in order to promote and facilitate the use of mediation to resolve international disputes, it is most desirable to have an

intergovernmental organisation devoted to the use of mediation to resolve international disputes. The establishment of the IOMed has filled a glaring omission in the past international dispute resolution system. The Organization will complement the other two intergovernmental organisations specialising in international dispute resolution, namely, the International Court of Justice and the Permanent Court of Arbitration.

The headquarters of the IOMed will be crucial to the implementation of the Convention. It represents the physical presence of the institution, and provides the platform to provide various mediation services. I am extremely grateful that the state parties to the Convention have agreed to establish the headquarters of the IOMed here in Hong Kong, which is a strong vote of confidence in Hong Kong. I would respectfully submit that Hong Kong is indeed an ideal place to host the headquarters of the IOMed.

Hong Kong is a special administrative region of China, which has taken the lead in the establishment of the IOMed. Under the principle of "one country, two systems", Hong Kong enjoys numerous unique advantages, which put it in the best position to serve as the headquarters of the IOMed. As President Xi Jinping said on December 20, 2024, in Macao at the ceremony celebrating the 25th anniversary of China's resumption of sovereignty over Macao, the principle of "one country, two systems" embodies the fundamental values of peace, openness, harmony and sharing. These are also the intrinsic values behind the Convention.

Hong Kong is a well-known world-class international financial, trading and shipping centre. Its geographical location, well-developed transportation services and liberal immigration policy ensure that people from around the world may and can come here easily. Hong Kong is also one of the safest and most friendly cities in the world. We offer diversified services in different aspects to suit the needs of people speaking different languages coming from different cultures, religions and countries.

But most importantly in the present context, under the principle of "one country, two systems", Hong Kong is the only common law jurisdiction in China, and the only bilingual common law jurisdiction using both Chinese and English in the world. We have a strong pool of legal professionals coming from different jurisdictions who specialise and are experienced in international dispute resolutions. The legal system of, and the legal services provided by, Hong Kong are highly international, reputable and efficient. It is undoubtedly an international legal services and dispute resolution services centre.

Hong Kong has been a keen supporter of mediation. The HKSAR Government has formulated a comprehensive set of policy initiatives, which aim at deepening the mediation culture in Hong Kong. For example, the Policy Statement on the Incorporation of Mediation Clauses in Government Contracts was issued in November 2024. As a matter of general policy, the Government will incorporate a mediation clause in all government contracts. By taking the lead, it is hoped that private entities would be encouraged to include mediation clauses in their contracts, thereby deepening our "mediate first"

culture.

Turning to capacity building regarding international mediation, since 2018, the Department of Justice has been co-organising with reputable international organisations, almost on a yearly basis, Investment Law and Investor-State Mediator Training in Hong Kong. The Hong Kong International Legal Talents Training Academy under the Department of Justice was set up in November 2024, which may collaborate with the IOMed in organising capacity building programmes on international mediation in future.

Hong Kong is also continuously seeking to foster legal co-operation with other jurisdictions. It is our honour that, in a moment, the Department of Justice of the HKSAR Government will sign a Memorandum of Co-operation with Cambodia.

On this very happy and positive note, I would like to conclude by wishing you all a very fruitful and constructive Forum this afternoon. Thank you very much.