

**For discussion on
23 May 2022**

**Legislative Council Panel on
Administration of Justice and Legal Services
Asian-African Legal Consultative Organization
Hong Kong Regional Arbitration Centre**

Introduction

1. Actively pursuing the establishment of arbitration centres in Hong Kong by international legal and dispute resolution institutions is conducive to developing Hong Kong into a centre for international and dispute resolution services in the Asia-Pacific region, and is one of the major policy initiatives of the HKSAR government.

2. This policy initiative has most recently been reiterated in the Chief Executive's 2021 Policy Address, which notes that in order to press ahead with the development of Hong Kong into a major centre for international legal and dispute resolution services in the Asia-Pacific region, we will adopt a wide range of measures including, *inter alia*, attracting international legal and dispute resolution institutions to set up offices in the Hong Kong Legal Hub. The 14th Five-Year Plan also supports Hong Kong to reinforce and enhance its competitive advantage, among which is to support Hong Kong to establish itself as a centre for international legal and dispute resolution services in the Asia-Pacific region.

3. Further to the administration informing this Panel of the establishment of the AALCO Hong Kong Regional Arbitration Centre (the "Centre") on 4 February 2022, this paper provides an introduction to the Asian-African Legal Consultative Organization ("AALCO") and the Centre, and provides updates regarding the current progress of the setting up of the Centre.

(A) AALCO

(1) Background to AALCO

4. AALCO was constituted on 15 November 1956 as a tangible outcome of the Bandung Conference¹. Then known as the Asian Legal Consultative Committee, seven Asian states² constituted the original member states. In 2001, the name was changed to its current iteration which indicates the participation of African states and to reflect the growing status of AALCO and the place it has secured among the family of international organizations.

5. AALCO's purposes and objectives³ are:

- To serve as an advisory body to its Member States in the field of international law and as a forum for Asian-African co-operation in legal matters of common concern;
- To consider and deliberate on issues related to international law that may be referred to AALCO by the Member States and to make such recommendations to governments as deemed necessary;
- To exchange views, experiences and information on matters of common concern having legal implications and to make recommendations thereto if deemed necessary;
- To communicate, with the consent of the governments of the Member States, the views of AALCO on matters of international law referred to it, to the United Nations, other institutions and international organizations;
- To examine subjects that are under consideration by the International Law Commission and to forward the views of AALCO to the Commission; to consider the reports of the Commission and to make recommendations thereon, wherever necessary, the Member States; and

¹ The Bandung Conference was a meeting of 29 Asian and African states held in Indonesia in April 1955.

² The original seven States of the Asian Legal Consultative Committee are Burma (now Myanmar), Ceylon (now Sri Lanka), India, Indonesia, Iraq, Japan, and the United Arab Republic (now the Arab Republic of Egypt and the Syrian Arab Republic).

³ As stipulated in Article 1 of the Statutes of AALCO.

- To undertake, with the consent of/or at the request of Member States, such activities as may be deemed appropriate for the fulfillment of the functions and purposes of AALCO.

6. AALCO is the only inter-governmental legal consultative organization in the Asian and African region. It currently has 47 member states comprising almost all the major states from Asia and Africa, including the People's Republic of China. AALCO holds permanent observer status at the United Nations since 1980 and maintains a permanent office at UN Headquarters.

(2) **Hong Kong and AALCO**

7. With support from the Central People's Government ("CPG"), the Department of Justice ("DoJ") first participated in the Annual Session of AALCO as part of the Chinese delegation in 2015. DoJ counsel have also participated in the China-AALCO Exchange and Research Program on International Law ("CAERP") since its inception in 2015, which aims to promote capacity building in international law for AALCO members by conducting an annual training course in Beijing, exposing participations to the theory and practice of international law by learning from eminent practitioners and academics from around the world while also facilitating the mutual appreciation and understanding of different Asian and African cultures. In 2017, CAERP and the Asian Academy of International Law also signed a memorandum of understanding for cooperation which allows CAERP participants to experience a week of lectures, seminars and conferences in Hong Kong in addition to the Beijing part of the program.

8. With support from the CPG, Hong Kong hosted the 59th Annual Session of AALCO from 29 November to 1 December 2021 in hybrid format, which is a first for AALCO. The Annual Session is one of the major events in AALCO's calendar each year, during which delegates from member states and those attending as observers (both non-member states and international organizations) participate in deliberations which examine international law matters discussed by other international organizations such as the United Nations International Law Commission, and examine

issues of international law that are of particular interest and relevance to AALCO member states.

9. During the Annual Session, Premier Li Keqiang delivered the Inaugural Statement, and the Secretary for Justice was elected president of the Annual Session and chaired the meeting. Member states also elected and appointed the next Secretary General of AALCO, Dr. Kamalinne Pinitpuvadol of Thailand, at the Annual Session.

10. The establishment of the Centre was also officially announced at the Annual Session.

(3) **Regional Arbitration Centres of AALCO**

11. In 1974, AALCO noted that efforts should be made by member states to develop institutional arbitration in the Asian and African regions. Thereafter, the Asian International Arbitration Centre, formerly known as The Regional Centre for Arbitration, Kuala Lumpur in Kuala Lumpur, Malaysia, was established in 1978. Since then, AALCO Regional Arbitration Centres have been established in Cairo, Egypt (1979), Lagos, Nigeria (1989), Tehran, Iran (1997), and Nairobi, Kenya (2016).

12. Regional Arbitration Centres established under the auspices of AALCO function as international institutions with the objective of promoting international commercial arbitration in the Asian-African regions and providing for the conducting of international arbitration. They seek to develop institutional arbitration and promote international commercial arbitration in the Asian and African regions, and aim to render assistance in the conduct of ad hoc arbitrations, particularly those held under the UNCITRAL Arbitration Rules.

(B) AALCO Hong Kong Regional Arbitration Centre

(1) **Background**

13. Further to AALCO's work plan approved in 2018 in relation to the establishment of another arbitration centre, the then Secretary-General of

AALCO and the CPG agreed on the establishment of a regional arbitration centre in Hong Kong. On 10 November 2021, the CPG and AALCO entered into an agreement⁴ (the “Agreement”) to establish a Regional Centre for Arbitration in Hong Kong, to be named the AALCO Hong Kong Regional Arbitration Centre.

14. The establishment of the Centre constitutes a significant vote of confidence in the HKSAR’s position as a leading centre for international legal and dispute resolution services in the Asia-Pacific region. Implementation of the Agreement will further enhance Hong Kong’s status in the Asia-Pacific region and beyond.

(2) **Scope of the AALCO Hong Kong Regional Arbitration Centre**

15. Adding to the five existing regional arbitration centres established by AALCO and the respective host country, the Centre’s objectives include acting as a coordinating agency in the AALCO dispute settlement system, to promote the growth and effective functioning of arbitration institutions and other alternative dispute resolution (“ADR”) services, including online dispute resolution (“ODR”) services, to promote the wider application of various ADR rules within the Asian and Pacific region, to provide facilities for ADR services including ad hoc arbitrations as well as arbitrations held under the auspices of the Centre and other arbitral institutions, and to provide assistance in the enforcement of arbitral awards.

16. In addition to its objectives, the Centre has a number of functions and duties, including the promotion of international commercial arbitration in the region, coordinating activities and assistance to existing arbitration institutions in the region, providing assistance to ad hoc arbitrations, assisting in the enforcement of arbitral awards, conducting arbitrations under the auspices of the Centre, and to perform other necessary activities

⁴ Agreement between the Government of the People’s Republic of China and the Asian-African Legal Consultative Organization on the Establishment of a Regional Centre for Arbitration in the Hong Kong Special Administrative Region of the People’s Republic of China, done at New York on 10 November 2021.

in consultation with the Secretary-General of AALCO and other relevant parties in achieving the objectives of the Centre.

17. The Centre also has a specific focus on the use and promotion of ODR. To this end, the Centre will support an ODR-friendly dispute resolution process including catering for ODR processes in its arbitration rules.

(3) **Progress on setting up the AALCO Hong Kong Regional Arbitration Centre**

(a) **Venue**

18. The Centre will form part of the Hong Kong Legal Hub, and will be housed at office premises at the Shanghai Commercial Bank Tower, 12 Queen's Road Central, Hong Kong. DoJ is actively preparing for the establishment of the Hong Kong Regional Arbitration Centre which is expected to be officially open on 25 May 2022. The fitting-out works for the leased office accommodation is ongoing at present.

(b) **Privileges and Immunities of the Centre**

19. In line with the established practice of the HKSAR, the provisions of the Agreement in relation to, among other matters, the Centre's legal status, and the privileges and immunities of the Centre and its personnel have to be given effect by local legislation.

20. In this connection, section 3 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) stipulates that the Chief Executive in Council may, by order in the Gazette, declare that the relevant provisions in the Agreement relating to the status of the Centre, and to the privileges and immunities of the Centre and its personnel have the force of law in Hong Kong. We are currently preparing a draft Order to give effect to relevant provisions of the Agreement to submit to the Chief Executive in Council.

21. We have consulted the CPG via the Office of the Commissioner of the Ministry of Foreign Affairs (“OCMFA”) on the said draft Order. OCMFA has advised that the CPG has no objection to the provisions of the draft Order. DoJ will submit the said recommendation to the Chief Executive in Council in due course.

22. In the meantime, the privileges and immunities of the Centre and its personnel afforded under the provisions of the Agreement are given legal effect in the HKSAR by the Regulations of the People’s Republic of China Concerning Diplomatic Privileges and Immunities, which is a national law applicable to the HKSAR by promulgation under Article 18 of the Basic Law.

Conclusion

23. The establishment of the Centre marks a major milestone in the development of Hong Kong as a centre for international legal and dispute resolution services in the Asia-Pacific region, and constitutes a significant vote of confidence from the CPG and AALCO to Hong Kong. The establishment of the Centre will also contribute to the promotion and development of ADR (in particular ODR) services in Hong Kong and in the region, expanding the Hong Kong Legal Hub precinct and creating more synergy with other legal and dispute resolution institutions in Hong Kong.

Department of Justice
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