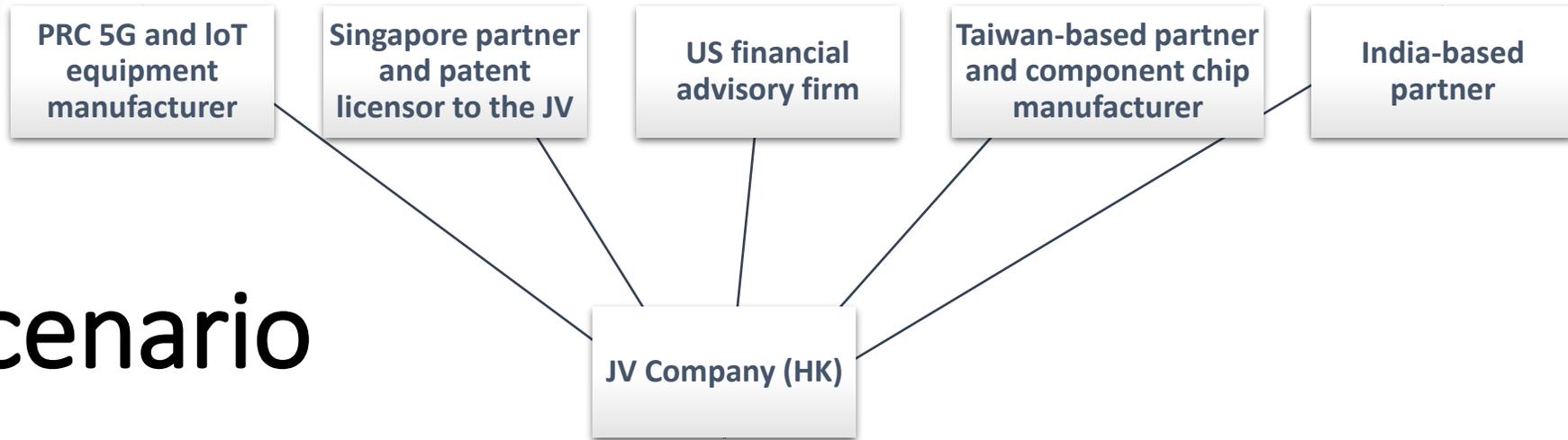




# Panel I

## Hong Kong – A Paramount Hub of International Commercial Arbitration

why  
in Arbitrate  
HONG KONG



## Case Scenario

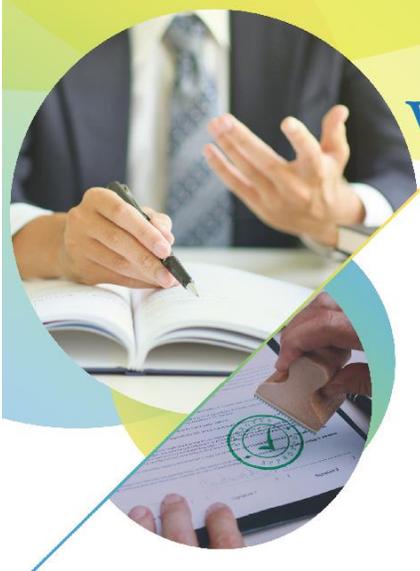
The JV company is raising money from the Hong Kong Stock Exchange to work with real estate companies and locally licensed mobile operators and spectrum owners around the world. Its plan is to erect spectrum towers to be “shared licensed”.

- Contracts to be signed:
  1. Joint venture agreement
  2. Shareholders agreement
  3. IP agreements (patent license agreement etc.)
  4. Supply agreement
- What would you suggest for **(a) the governing law** and **(b) courts or non-court route?**

# Why Hong Kong?

Hong Kong is a prime venue for international legal and dispute resolution services through arbitration:

- A total of **318** arbitration filings were submitted to Hong Kong International Arbitration Centre (HKIAC) in **2020 (highest number received in over a decade)**.
- Arbitrations filed in 2020 to HKIAC continued to be predominantly international featuring parties from **45** jurisdictions. **72%** of all arbitrations and **86%** of administered arbitrations were international. The vast majority of the arbitrations were seated in Hong Kong.
- Hong Kong is ranked the **top 5** seats of arbitration worldwide by Queen Mary University of London and White & Case's 2018 International Arbitration Survey.



Why  
in Arbitrate  
HONG KONG

# Is Hong Kong a Good Seat?

NY Convention territory

Modern arbitration law (Model Law)

Common law system

Pro-arbitration courts

HK awards easily enforced in Mainland China and internationally

Specialist law firms

Strong bench of arbitrators

HKIAC, ICC, CIETAC HK all experienced in China-related disputes

First-class hearing facilities and translators, interpreters, etc.

Good transport links, hotels and restaurants



Why  
in Arbitrate  
HONG KONG

# Is Hong Kong a Good Seat?

Joinder & consolidation

Emergency arbitration

Interim Relief Arrangement

Third party funding



Why  
in Arbitrate  
HONG KONG

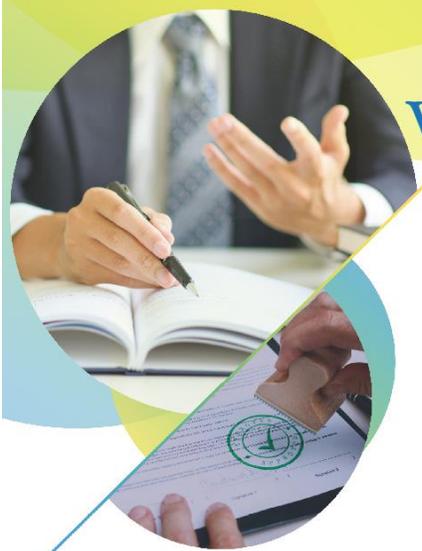
# Online Dispute Resolution

eBRAM International Online Dispute  
Resolution Centre

AI translation, Blockchain, Cloud,  
Cybersecurity, LegalCloud

COVID-19 ODR Scheme:  
disputes <HK\$ 500k + at least one HK party





Why  
in Arbitrate  
HONG KONG

# Intellectual property disputes

IPR disputes can be arbitrated in Hong Kong

- Part 11A Arbitration Ordinance (Cap. 609)

Includes enforceability, infringement, subsistence, validity, ownership, scope or duration of IPR

Not contrary to public policy to enforce award in HK

HKIAC panel of IP arbitrators

Numerous HK law firms with IP expertise



Why  
in Arbitrate  
HONG KONG

# 14<sup>th</sup> Five Year Plan

The 14<sup>th</sup> Five-Year Plan supports Hong Kong to:

- establish itself as a centre for international legal and dispute resolution services in the Asia-Pacific region
- enhance its status as an international financial, transportation and trade centre
- strengthen its status as a global offshore Renminbi business hub, an international asset management centre and a risk management centre
- enhance its status as an international aviation hub, to develop into an international innovation and technology hub and a regional intellectual property trading centre, and to develop into a hub for arts and cultural exchanges between China and the rest of the world etc.





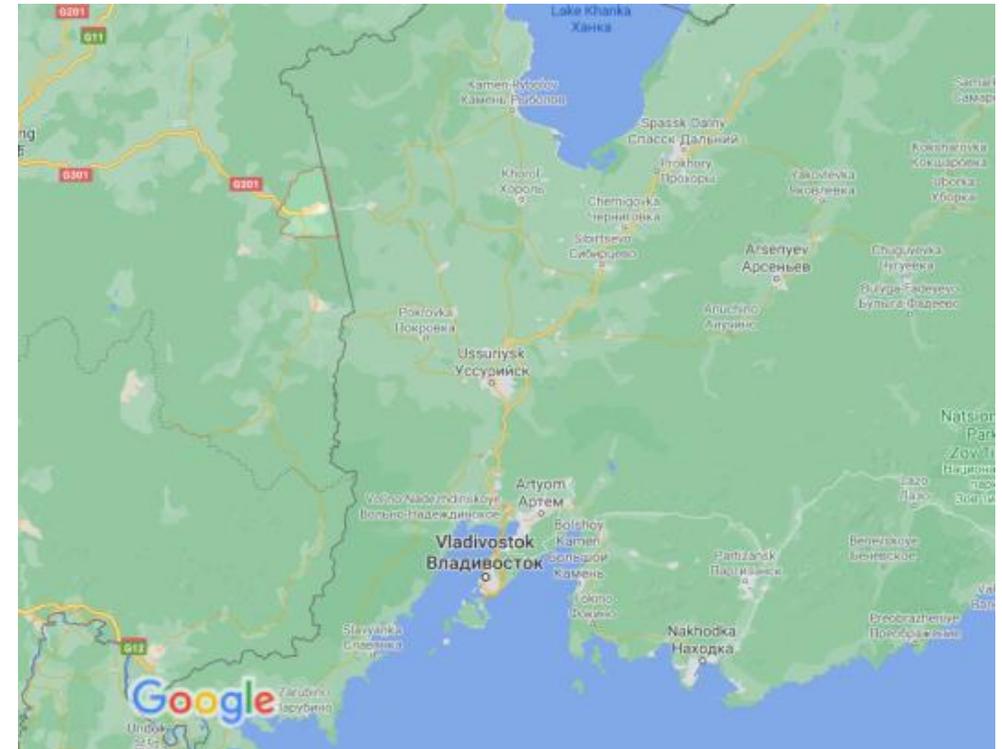
# Panel III

## Hong Kong – A Prominent Seat of Investment-Related Arbitration

why  
in Arbitrate  
HONG KONG

# Hypothetical Case Scenario: A Nakhodka-Vladivostok-Suifenhе Toll Road

A Chinese State-owned enterprise is negotiating an EPC contract with the Office of Transport Infrastructure of the Ministry for the Development of the Far East of the Russian Federation, for construction of a highway and toll road connection between the cities of **Nakhodka** and **Vladivostok** in the Far East of the Russian Federation, and connecting those cities to **Suifenhе** on the Russian-Chinese border check-point.



# The Parties and Their Positions

- The Chinese SoE is headquartered in Beijing, and it has a listed HK-subsiary
- The Office of Transport Infrastructure is a State organ of the Russian Federation
- The Parties have reached an agreement on the main terms of the EPC
- The Parties differ on the dispute resolution clause for the transaction.

## The Office of Transport Infrastructure

- **Exclusive jurisdiction of Russian courts**
- **Russian law as the applicable law of the EPC**
- **Alt: arbitration clause with a seat in Russia, while applicable law is to be negotiated**
- **Alt: arbitration clause with a seat in Singapore, Stockholm, Paris, London, or elsewhere**
- **Alt: exclusive jurisdiction of Hong Kong courts**
- **Alt: arbitration clause with a seat in Hong Kong**

## The Chinese SoE

- **Exclusive jurisdiction of Chinese courts**
- **Chinese law as the applicable law of the EPC**
- **Alt: arbitration clause with a seat in China, while applicable law is to be negotiated**
- **Alt: arbitration clause with a seat in Singapore, Stockholm, Paris, London, or elsewhere**
- **Alt: exclusive jurisdiction of Hong Kong courts**
- **Alt: arbitration clause with a seat in Hong Kong**

# Discussion Points

- Does a contractor have the scope to negotiate the dispute resolution clause in a Belt & Road project of this nature?
- What are the advantages and disadvantages of a dispute resolution clause that grants exclusive jurisdiction over the dispute to the PRC courts, to the courts of the Host State, and to the Hong Kong courts, respectively
- The Parties' views on neutrality of Hong Kong as a seat of arbitration in the Belt & Road projects
- Advantages and disadvantages of Singapore, Hong Kong, Vladivostok, and Moscow, as seats for Russia- and China-related disputes
- Whether the parties would be in a position to find locally qualified Russian-speaking arbitration lawyers in Hong Kong to represent them in the arbitration or in any related court proceedings in the Hong Kong courts
- Availability of legal framework allowing the parties to enter into mediation at the pre-arbitration or in the course of arbitration in Hong Kong, Singapore, and Moscow
- Whether the Chinese SoEs enjoy any jurisdictional immunities in Hong Kong
- Enforcement rate of awards issued in Hong Kong and set aside statistics in Hong Kong
- Is there an investment protection treaty that the Parties may invoke
- What are the advantages of having a Belt & Road treaty dispute seated in Hong Kong?