

Statement by Secretary for Justice

Noting the recent public discussions on the nationality of the judges of the Court of Final Appeal (CFA), the Secretary for Justice, Mr Rimsky Yuen, SC, made the following statement today (November 6):

"Under Article 92 of the Basic Law, judges and other members of the Judiciary of the Hong Kong Special Administrative Region (HKSAR) shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. Article 82 of the Basic Law also provides that the CFA may as required invite judges from other common law jurisdictions to sit on the CFA. At the same time, Article 90 of the Basic Law stipulates that the Chief Justice of the CFA and the Chief Judge of the High Court of the HKSAR shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country.

"The judicial system of the HKSAR, including the CFA, has on the whole worked very well since 1997. Judgments of the CFA are cited in other common law jurisdictions, which reflects the quality of those judgments. Judges of the CFA, including the overseas non-permanent judges, are highly respected, and have no doubt made very positive contributions to the development of our jurisprudence.

"As a common law jurisdiction, it is important and beneficial for the HKSAR to maintain a link with other common law jurisdictions. The presence of overseas non-permanent judges helps to enhance the international reputation of our Judiciary. Any proposal to impose nationality or residence requirements (other than those set out in Article 90 of the Basic Law) would unduly restrict the pool of talents that can be appointed as judges."

Ends/Tuesday, November 6, 2012