

**Speech by the Hon Wong Yan Lung, SC, JP,  
Secretary for Justice, at the  
Fourth China-ASEAN Prosecutors-General Conference  
11 April 2007, Macao**

Honourable Prosecutor General Jia Chunwang, Mr. Chairman, Your Excellencies, Ladies and Gentlemen,

I am honoured to have been invited to attend this Conference as part of the Chinese delegation and to share experience and thoughts on '*Direct Co-operation in the Fight against Transnational Crimes*' from the perspective of the Hong Kong Special Administrative Region.

2. First of all, may I thank our host, Dr. Ho Chiomeng, Prosecutor General of Macao SAR, for the warm hospitality and assistance he has extended to me and my delegation. Macao has undergone a major transformation in recent times, and the progress that has been made is apparent to us all. Equally impressive are the arrangements that have been made to make this important conference a success.

3. Few will dispute the need for closer co-operation amongst prosecutors and law enforcers in our area in the combat of transnational crime. This point has been repeatedly stressed at our earlier conferences. What I wish to do is to place the challenge posed to us all by transnational crime in a proper context, and then to consider the most constructive means of responding. I start from the premise that in an interdependent world the goal must be to ensure that the rule of law ultimately prevails. Anti-crime strategies will only succeed if all are clear as to the characteristics of the problem faced. But let me begin by highlighting a vital, if basic, proposition.

4. In this day and age, prosecutions will often only be viable if evidence can be obtained from overseas, or from witnesses abroad. Mechanisms to facilitate the giving of testimony from such persons are therefore instrumental. If a witness is willing to provide a statement and to come to Hong Kong to provide evidence, this is most ideal. But important witnesses are sometimes not prepared to travel to Hong Kong to testify, and a letter of request for the court to go to the home jurisdiction of the witness to take evidence may be unavoidable. Hong Kong has recently passed legislation which permits a witness in another jurisdiction to testify in criminal proceedings in Hong Kong via a live television link. Once this legislation comes into effect, it will help to resolve the problem caused by the witness who is reluctant to travel. To counter crime effectively, witnesses must be in a position to testify against its perpetrators, and all that is possible should be done to ensure this can be achieved on a transnational basis.

5. Transnational crime is a multi-headed hydra. It ranges from drug-related violence, murder and bombings on the one hand, to money laundering, credit card fraud, people smuggling and child pornography on the other. Transnational crime poses a threat to regional stability and development, to the maintenance of the rule of law, to the social and moral fabric of society, and to economic development. Different states have responded to the threat in a number of ways, though some measures are common. As criminal groups exploit globalisation and technological advances, and extend their activities across national borders, the challenges of countering transnational crime inevitably increase. No one place can successfully meet that challenge on its own.

6. In the face of transnational crime, law enforcement agencies everywhere have had to respond in creative, systematic and resolute ways. They have developed undercover operations, surveillance, intelligence sharing and analysis, forensic accounting, multi-agency investigations, and confidential sources of information. They have also made the case for more stringent laws. Amongst prosecutors and investigators there is a consensus on the importance of clear and effective modalities to combating transnational crime. By this I mean better mutual legal assistance, improved asset tracing and enhanced intelligence gathering, the importance of which

are well recognised at the international level.

7. Following the ratification in 2003 of the United Nations Convention Against Transnational Organized Crime (*The Palermo Convention*), a roadmap now exists for law enforcers everywhere. But ratification is one thing, and implementation quite another. The Palermo Convention and its Protocols provide the global framework to counter the threat of transnational crime, and it must be allowed to achieve its maximum potential. There is, I believe, a danger that such factors as corruption, vested interests, lack of resources and resistance to institutional reform may combine to hinder the objectives of the Palermo Convention. However, I am optimistic that the bold vision of concerted action by states in developing and sharing anti-crime strategies will survive and flourish. There is, after all, no other choice if our societies and ways of life are to be safeguarded and are to develop as we would wish.

8. As we review anti-crime strategies, it is salutary to consider how organized criminal groups conduct themselves. Quite clearly, they need finance. They need people willing to commit the offences. They have to obtain equipment and transportation. They need to convert the products of crime into money or other usable assets. They have to find people and places willing to store proceeds. They also, and this is of particular concern, need to neutralise law enforcement by using technical skills, corruption, or legal techniques to frustrate investigations and prosecutions. Once the *modi operandi* of the criminal groups are identified in this way, the task of countering their activities is placed in an appropriate context.

9. The Palermo Convention recognises that the threat which law enforcers confront is both formidable and expanding. As part of the globalisation process, criminal groups are both diversified and refined. They make full use of legitimate trade networks to move illicit funds around the world, and they are expert at covering their tracks. Latest technology is deployed, and the monitoring of their transactions is problematic. The spread of e-business and the creation of *'virtual identities'* facilitates criminal activity, as well as its concealment. Advances in computer and printer technology have improved counterfeit documentation. Even the wide

choices of routes provided by international air travel have enabled wanted persons to reduce the risk of apprehension as they move around the globe. Latest techniques are applied by those who violate our laws, and even strong criminal justice systems have difficulty in responding appropriately. This is precisely why the Palermo Convention stresses the importance of international co-operation to prevent and combat transnational crime.

10. The Government of the Hong Kong Special Administrative Region has acted proactively in the prosecution of crime. Laws have been strengthened to counter the latest manifestations of transnational crime. This is perhaps most apparent in relation to money laundering, terrorist activity, human trafficking, technology crime, child pornography, copyright piracy and corruption. At the same time, there is the clearest possible recognition that international co-operation and dialogue are essential if local laws are to succeed. Hong Kong is committed to playing a full and constructive role in regional and international initiatives to promote global co-operation amongst law enforcers and prosecutors, and to developing best practice. As part of this process, mutual legal assistance, inevitably, has a vital role to play.

11. Under the Basic Law of the Hong Kong Special Administrative Region, Hong Kong may, with the approval or assistance of the Central People's Government, enter into mutual legal assistance agreements with foreign countries. Such agreements involve, among others, the right to summon witnesses, to compel production of evidence and to issue search warrants. As at 1 March 2007, Hong Kong has initialled 32 mutual legal assistance agreements with foreign countries, of which 21 have also been signed. Even if a mutual legal assistance agreement has not been entered into, Hong Kong can provide assistance to a state in a particular situation if that state provides an undertaking of reciprocity to assist Hong Kong in comparable circumstances.

12. The Palermo Convention places a significant focus upon the confiscation and seizure of the proceeds of transnational crime. Hong Kong recognises that if the profit is taken out of crime, this will deter people from becoming involved, reduce the allure of quick gain, and strike at the financing of corrupt activity. As a past president of the Financial Action Task Force, and as a founding member of the Asia Pacific Group on Money Laundering, Hong Kong has wide experience of co-ordinating global initiatives to combat money laundering. In 2006, the number of requests made to, and received by, the Hong Kong Police Force in money laundering and confiscation matters with other jurisdictions was 219. In relation to asset recovery, mutual legal assistance, and the combat of corruption, Hong Kong has learned much in recent times, and in the spirit which informs the Palermo Convention, we stand ready to assist others to develop their anti-crime agendas.

13. Hong Kong has been a member of the International Association of Prosecutors (IAP) since 2001. The IAP facilitates communication between prosecutors in different places, promotes best practice in the combat of transnational crime, and provides a point of reference for prosecutors in the challenges they face. Hong Kong will host the 12th Annual Conference and General Meeting of the IAP between 16 and 20 September this year. I look forward to welcoming you, and to exchanging ideas on how we can best co-operate with one another in the face of the common challenges that confront us all.

14. Thank you very much.