

**Keynote Address by Hon Rimsky Yuen, SC, JP  
Secretary for Justice of the HKSARG  
at the 16<sup>th</sup> Annual In-House Congress Hong Kong  
on 8 October 2014 (Wednesday)**

Distinguished Guests, Ladies and Gentlemen,

It gives me great pleasure to join you this morning for the 16<sup>th</sup> Annual In-House Congress Hong Kong, and thank you very much for giving me this opportunity to address such a distinguished audience.

2. Fifteen years ago (that is 1999), the very first In-House Congress organized by the In-House Community started in Hong Kong. Over these fifteen years, the In-House Community has grown both in strength and size, and the various Congresses organized over the years have provided valuable opportunities for sharing experience and exchanging views.

3. It is self-evident from the programme of today's Congress that the various topics covered are highly relevant to the work of in-house counsel. Of particular interest and importance is the discussion that is about to take place, namely, the panel discussion on the future of the legal industry. Given the experience and expertise of the panelists who will be participating in the discussion, I am sure you will be hearing enlightening views.

4. On my part, allow me to take this opportunity to deal with (from a macro and policy perspectives) two areas, namely, private international law and dispute resolution, which I believe are relevant to the future development of our legal landscape and the work of in-house counsel.

**Importance of Private International Law**

5. The first aspect that I would like to deal with is the growing importance of private international law.

6. Law, whether domestic, regional or international, exists to serve the human community. As human societies change, their laws also evolve. Many people have talked about the impact of globalization, regional integration and the advance of technology. No doubt, these are important driving forces which are changing the human societies on a global scale. From the legal perspective, one asks the question: how would these driving forces shape the future of our legal landscape and legal practice?

7. A quick look at history and what is currently happening may provide the answer. In the 1870s, lawyers at the time were facing the daunting challenges brought about by the significant impact of the industrial era, especially the dramatic intensification of international communications. The result, amongst others, was the upsurge of studies and discussions on private international law, which set the scene for the first meeting of the Hague Conference on Private International Law in 1893. Thereafter, various international bodies, including bodies set up under the umbrella of the United Nations, spent much resources and efforts on the harmonization of private international law.

8. If we look at the impact of globalization, regional integration and advance of technology on our daily life, it is crystal clear that the impact (whether collectively or otherwise) is even much greater than the impact of the industrial era. These driving forces bring people all over the world closer, make communication between people in different jurisdictions much easier and in short break down national barriers in ways which are far more effective than any forces we have seen before. This phenomenon often raises questions of conflicts of law, whether in the context of commercial transactions between international corporations or the daily life of individuals.

9. In the circumstances, there is no doubt a stronger need to either strengthen the existing network or to build a new platform to harmonize private international law. In this regard, Hong Kong is playing its part in that the Department of Justice is working closely with the Hague Conference on Private International Law in various aspects through its Asia Pacific Regional Office established in Hong Kong in late 2012. Indeed, in the course of this week, a group of internationally leading experts are gathering in Hong Kong discussing issues concerning the Choice of Court Agreement

Convention 2005, an international convention which will have significant impact on international contract and thus an area which lawyers involved in international transaction can ill afford to ignore.

10. As people get closer and the world in that sense becomes smaller, the need to have an effective network of private international law becomes more and more important. In-house lawyers definitely have an important role to play, as they are the front-line users of such networks and thus are in a position to make contribution to the reform and refinement of such networks.

### **Dispute Resolution**

11. The second area that I wish to cover is dispute resolution, which I note is also one of the areas covered by this Congress.

12. Indeed, dispute resolution is certainly one of the various important functions performed by in-house lawyers, whether *vis-a-vis* third parties outside the organizations their serve, or amongst personnel within the organizations, and whether as a stand-alone area of professional responsibilities or as part of the overall risk management.

13. In a recent survey conducted by the Centre for Effective Dispute Resolution amongst in-house lawyers in England in March last year, it was revealed that dispute resolution ranked as the second most time-consuming activity<sup>1</sup>. Further, as pointed out by James Groton and Robert Rubin<sup>2</sup>, two prominent American lawyers specializing in dispute prevention and resolution, the most successful approach of dispute prevention is to acknowledge at the outset of a contractual relationship that disputes may occur, anticipate the kinds of problems and disputes that are most likely to emerge, and design a system that will ensure prompt and realistic resolution of disputes before they grow into serious problems.

---

<sup>1</sup> See: *Preliminary Findings: Survey of In-House use of Commercial Mediation* (7 March 2013) (CEDR).  
<sup>2</sup> James P Groton and Robert A Rubin, “Brief Review of Typical Dispute Prevention and Resolution Best Practices”, in the Proceedings Report of “Reducing Construction Costs: Uses of Best Dispute Resolution Practices by Project Owners”, Federal Facilities Council Technical Report No. 149 (2007), National Research Council, Chapter 3.

14. As regards the mode of dispute resolution, another recent survey of in-house lawyers published by PricewaterhouseCoopers and Queen Mary, University of London<sup>3</sup> revealed that arbitration is the most popular option amongst dispute resolution mechanisms for resolving contractual disputes. This result is not surprising, since international arbitration can often offer advantages (including flexibility, neutrality, expertise, speed and confidentiality) that traditional court litigation cannot always offer.

15. Apart from arbitration, there is a rising global trend in using mediation to resolve disputes and such trend has heavily influenced the attitude of the business communities in the Asia Pacific region. Ever since I took up my present position as the Secretary for Justice, I often have the opportunity to meet representatives from consulates and chambers of commerce of different countries. Not only do I see immense interest in mediation, one feature that clearly stands out is that they all favour mediation because they believe mediation is conducive to maintaining relationship whereas traditional litigation often leads to the fatal destruction of future co-operation prospects.

16. As I have reiterated on many occasions, it is the steadfast policy of the Hong Kong SAR Government to enhance Hong Kong's status as a regional centre for international legal and dispute resolution services in the Asia Pacific region. As part of this policy, we have endeavoured to provide top quality dispute resolution infrastructure so that parties could resolve disputes in a cost-effective manner. This is a message that I would very much urge you, as in-house lawyers, to bring home to your organization when considering the venue for resolving international commercial disputes.

17. In the context of arbitration, a user-friendly legislative framework is vital in attracting parties to arbitrate in Hong Kong. The current Arbitration Ordinance (Cap. 609) is the result of a major re-vamp of our former arbitration legislation. It unifies our previous domestic and international arbitration regimes based on the 2006 version of the UNCITRAL Model Law on International Commercial Arbitration, a model with which the international community is very familiar. Needless to say, we continuously monitor the international arbitration landscape so as to ensure that our

---

<sup>3</sup> 2013 Report on "*Corporate choices in International Arbitration*" (at pp. 6-7)  
([www.pwc.com/gx/en/arbitration-dispute-resolution/assets/pwc-international-arbitration-study.pdf](http://www.pwc.com/gx/en/arbitration-dispute-resolution/assets/pwc-international-arbitration-study.pdf))

legislative framework can be improved to suit the needs of the end-users of arbitration. One example is the recent amendments to the Arbitration Ordinance, which introduced provisions to make it clear that emergency relief granted by an emergency arbitrator before an arbitral tribunal is constituted (and whether granted in or outside Hong Kong) is enforceable under the Arbitration Ordinance.

18. Another reason which explains why Hong Kong is an ideal venue for conducting international arbitration is the presence of highly reputable arbitration institutions. Since its establishment in 1985, the Hong Kong International Arbitration Centre has been the focal point of arbitration in Hong Kong.

19. Apart from our home-grown arbitration institute, other internationally well-known arbitration institutions have established their presence in Hong Kong in recent years, and this trend will continue. This include the Paris-based International Chamber of Commerce (which set up its first overseas branch of the Secretariat of its International Court of Arbitration in Hong Kong) and also the China International Economic and Trade Arbitration Commission (“CIETAC”) which set up its Hong Kong centre, which is the first such centre established by CIETAC outside the Mainland. Later this year, the China Maritime Arbitration Commission will also be setting up its office in Hong Kong, again its first office outside the Mainland. Besides, the relevant arrangement to facilitate the Permanent Court of Arbitration, another leading arbitration institution based in The Hague, to conduct international investment and other types of arbitration in Hong Kong, has been finalized and formal announcement of the same will soon be made.

20. As noted earlier, there is a rising global trend in using mediation to resolve disputes, and Hong Kong is no exception. On the part of the Government, we likewise have spared no effort in promoting the use of mediation in Hong Kong. The Mediation Ordinance (Cap. 620), which came into effect in January last year, provides a legal framework for conducting mediation in Hong Kong. As you may note, Hong Kong is one of the few jurisdictions in Asia which has a standalone legislation on mediation. Amongst others, the Mediation Ordinance provides proper protection to the confidentiality of the mediation process, a key cornerstone of mediation and a vital factor which attracts parties to engage in mediation.

21. As in-house lawyers, you serve from time to time as the first contact point for the management before and after disputes arise, as well as a crucial source of advice on how best to resolve or deal with them. In-house lawyers are naturally one of our key partners in the promotion of dispute resolution, and I would urge all of you to give us your views on how best Hong Kong can further develop in this direction.

### **Conclusion**

22. Ladies and gentlemen, the importance and influence of in-house lawyers are growing within the legal profession and in the organizations they serve as well as in the community as a whole. In-house lawyers nowadays do not simply perform technical or operational functions which were confined to pure legal matters. Instead, in developed jurisdictions such as Hong Kong, in-house lawyers have become an integral part of the top management of the organizations they serve, and play a significant role in the strategic development of their respective organizations.

23. In short, in-house lawyers have an important part to play in shaping the future legal landscape (both domestically and internationally) as well as in changing our future legal practice. Accordingly, the Department of Justice looks forward to having further opportunities to exchange views with the In-house Community so that we can together build a better future for our legal system and legal landscape.

24. On this note, may I wish the 16<sup>th</sup> In-House Congress Hong Kong another year of great success.

25. Thank you.