

**Keynote Address by Mr Rimsky Yuen, SC, JP,
Secretary for Justice,
at the ALB Hong Kong In-House Legal Summit 2014
on 12 September 2014 (Friday)**

Mr Brian Tang, Distinguished guests, Ladies and Gentlemen,

I am very delighted to join the Summit this morning and am honoured to be given the opportunity to address this distinguished audience. This is the 11th Annual In-House Legal Summit held in Hong Kong. Built on the past success, I am sure the Summit this year will be another valuable occasion for corporate counsel, private-practice lawyers as well as business leaders to share insights and exchange views on matters of mutual interest. Let me make use of this opportunity to give you an overview of Hong Kong's current position as a centre for legal and dispute resolution services in the Asia Pacific region.

Legal services in Hong Kong: Latest Scene

2. As an international financial and commercial centre, Hong Kong has been enjoying good rankings in terms of its competitiveness and economic freedom. By way of example, the World Economic Forum released its latest report last week which reaffirmed Hong Kong's status as the 7th most competitive economy in the world. Going beyond this overall ranking, Hong Kong continues to be one of the top three in the area of "efficiency of legal framework in settling disputes".

3. Our robust legal system has been widely recognized as one of the key contributing forces to our economic success. The rule of law and judicial independence are core values to which the Government, the legal profession and the community attach great importance. Hong Kong continues to enjoy the common law system which is familiar to the international business community. By reason of the 'One Country, Two Systems' policy enshrined under our Basic Law, Hong Kong has been and remains the only common law jurisdiction within the entire Greater China region.

4. Our legal profession, including many of you here, plays a pivotal role in maintaining an effective legal system in Hong Kong. Currently, there are about 1,300 practising barristers, over 8,000 practising solicitors, and around 1,300 registered foreign lawyers from various different jurisdictions. As at August 2014, there are a total of 830 local solicitors firms and the number of registered foreign law firms has doubled from 36 to 79 within 9 years. The presence of a sophisticated, vibrant and international legal sector in Hong Kong enables the city to provide a variety of high quality legal services in numerous areas to meet the need of the local and international business community.

Government Policy and Measures

5. These strong fundamentals have put Hong Kong in good stead in rising as a leading centre for international legal and dispute resolution centre in the Asia Pacific region. It is also a firm policy of the Hong Kong Special Administrative Region Government to strengthen and consolidate Hong Kong's status in this regard.

Legislative framework

6. As a matter of fact, we have been sparing no efforts in improving the legal infrastructure to facilitate the development of our legal services.

7. Over the past few years, for example, we have amended the law to allow eligible solicitors, with effect from 2012, to apply for rights of audience in the higher courts, which will provide more opportunities for capable advocates to represent their clients in legal suits. We have also amended the law to allow law firms in Hong Kong, when the amendments come into force, to operate in the form of a limited liability partnership. Legislative amendments have also been introduced with a view to enabling lawyers to incorporate their legal practice in the form of a limited company, namely as a solicitor corporation. The amended legislation will come into effect upon Law Society's finalization of the subsidiary legislation required for its introduction.

8. Another key area of legislative amendments relates to arbitration and mediation. We have revamped our arbitration law, and the Arbitration Ordinance (Cap. 609) which came into effect in June 2011 is based on the 2006 version of the UNCITRAL Model Law on International Commercial Arbitration. It reinforces, if not enhances, the advantages of arbitration, including respect for parties' autonomy as well as savings in time and cost for parties opting to resolve their disputes by arbitration. The Ordinance also contains new initiatives which seek to enhance confidentiality of the arbitral process and related court hearings. Hong Kong is in fact the pioneer in Asia in adopting the 2006 version of the UNCITRAL Model Law.

9. Arbitration aside, we have enacted a Mediation Ordinance (Cap. 620) which came into effect in January 2013. As a significant milestone in the development of our mediation services, the Ordinance provides the legal framework for conducting mediation in Hong Kong, with emphasis on preserving flexibility and ensuring confidentiality. At the moment, our Steering Committee on Mediation is studying other initiatives to facilitate the better conduct of mediation, including the option of introducing an apology legislation in Hong Kong, which we believe will further enhance the development of mediation in this city.

World class law-related institutions

10. Apart from an up-to-date legislative framework, one of the key advantages of Hong Kong lies with the presence of world class international legal and dispute resolution institutions. These include: (1) our home-grown Hong Kong International Arbitration Centre ("HKIAC"), which has been growing from strength to strength since its establishment in 1985, and which can provide modern hearing facilities and effective administration services; (2) the International Court of Arbitration of the International Chamber of Commerce ("ICCICA"), which established in Hong Kong in 2008 the first branch of its Secretariat outside Paris; (3) the China International Economic and Trade Arbitration Commission ("CIETAC"), which established in Hong Kong in 2012 its first arbitration centre outside Mainland China; and (4) the Hague Conference on Private International Law, which established in Hong Kong in the same year its Asia Pacific Regional Office.

11. I look forward to a longer list of institutions in the years to come. My Department is working hard in this regard, and I am optimistic that I can announce further good news in the near future. As some of you may have heard, we are taking forward plans to allocate accommodation to law-related organisations in the former Central Government Offices and the former French Mission Building. By so doing, we will establish the area as the “legal hub” of Hong Kong, and that this would add to the impetus of our efforts to attract reputable law-related organisations to establish offices or presence in the city.

Role of In-House Counsel in the promotion of dispute resolution

12. The above gives a brief account of what we have been doing. However, similar to many other initiatives, our drive to strengthen Hong Kong’s status as a centre for international legal and dispute resolution services would not be successful without the support of the stakeholders. For the promotion of dispute resolution, in-house counsel are certainly our important partners. This is not just because of the significant number of in-house lawyers in the legal profession, but more importantly because of the important function they perform.

13. As in-house lawyers are familiar with the organisations and their business activities, they play an indispensable role in advising the management on the best strategy of handling matters relating to dispute resolution. Such a role commences as early as a business deal is under negotiation, since issues of governing law, choice of jurisdiction as well as options for alternative dispute resolution are all matters that deserve proper consideration and which are areas where in-house counsel can make a difference. Further, when disputes arise, litigation may be an option easily coming to mind, but there are certainly other options, including arbitration and mediation, which can be more cost-effective and may make better business sense from the commercial angle. In-house lawyers are well placed to advise the management on the merits of these alternatives, having regard to the specific circumstances of the disputes involved.

14. Before closing, may I do a bit of marketing about the “Mediate First” pledge campaign launched by the Department of Justice over the past few years. By signing the pledge, companies and organisations acknowledge their readiness to consider using mediation as a means of dispute resolution before resorting to litigation. We have received enthusiastic support from international corporations including banks and investment companies as well as SMEs in different sectors. I would like to make use of this opportunity to appeal to the in-house counsel here for their support in encouraging their organisations to sign the “Mediate First” Pledge, if they have not already done so.

Concluding remarks

15. Ladies and Gentlemen, as the Government is making its best endeavours to enhance Hong Kong’s international legal and dispute resolution services, we look forward to the support of in-house counsel. A corporate culture conducive to effective dispute resolution is in the best interest of all parties. I, as the Secretary for Justice, as well as my colleagues in the Department of Justice, all look forward to having more opportunities to exchange views on how we can assist or how we can co-operate to take forward this worthwhile objective.

16. On this note, may I wish the Summit another year of great success. For those who come from overseas jurisdictions, may I also wish you a very enjoyable stay in Hong Kong.