

調解快訊

2024年1月

The Mediation Dispatch

January 2024



律政司
Department of Justice



**Save the Date for Mediation Week
cum Mediation Conference 2024
6th to 10th May 2024**

**2024調解周及調解會議將於
2024年5月6日至10日舉行**



MEDIATE FIRST
調解為先



於 2023 年香港法律周期間與史密夫斐爾律師事務所合辦的第五屆香港調解講座：《以調解化解國際爭端—現狀、挑戰與機遇》於 2023 年 11 月 8 日圓滿舉行。在講座中，國際調解院籌備辦公室主任孫勁博士詳細講解了國際調解在化解國與國、投資者與東道國和國際商事爭議的法律框架和實踐，並解釋調解作為國際爭議解決機制的特點。孫博士也討論了國際調解院的建立，同時介紹該倡議的背景、現狀以及國際調解院的潛在角色和功能。講座最後討論了以調解化解國際爭端面臨的機遇和挑戰。孫博士深入淺出的分享釐清了有關國際調解的疑問，令與會者獲益良多。[按此](#)重溫孫博士的演講。

As part of the Hong Kong Legal Week 2023, the fifth Hong Kong Mediation Lecture: Resolving International Disputes Through Mediation – Where We Stand, Challenges and Opportunities Ahead, co-organised by the Department of Justice and Herbert Smith Freehills, was successfully held on 8 November 2023. During the Lecture, Dr. Sun Jin, Director-General of the International Organization for Mediation (“IOMed”) Preparatory Office, provided a detailed overview of the legal framework and practices of international mediation in resolving state-state, investor-state and international commercial disputes, and explained the features of mediation as an international dispute resolution mechanism. Dr. Sun then discussed the establishment of the IOMed, introducing the background of the initiative, the progress to date, and the potential role and functions to be played by the IOMed. The Lecture concluded with a discussion of the challenges and opportunities for mediation in resolving international disputes. The participants benefited greatly from Dr. Sun’s sharing in simple terms, which clarified questions about international mediation. See the full speech of Dr. Sun [here](#).

更多活動花絮

More Event Highlights

第六屆香港法律服務論壇

Sixth Hong Kong Legal Services Forum



律政司司長林定國資深大律師率領香港法律及爭議解決業界代表團，於 2023 年 8 月 24 日在成都出席第六屆香港法律服務論壇，推廣香港的法律及爭議解決服務。歡迎瀏覽[律政司司長致開幕辭的片段](#)和[活動照片](#)。

第六屆滬港商事調解論壇

6th Shanghai-Hong Kong Commercial Mediation Forum



律政司副司長張國鈞在香港法律周 2023 期間舉辦的第六屆滬港商事調解論壇致開幕辭。歡迎瀏覽[律政司副司長開幕致辭全文](#)和[活動影片](#)。
The Deputy Secretary for Justice, Mr Cheung Kwok-kwan, delivered opening remarks at the 6th Shanghai-Hong Kong Commercial

The Secretary for Justice, Mr Paul Lam, SC, led a Hong Kong legal and dispute resolution sector delegation to attend the sixth Hong Kong Legal Services Forum on 24 August 2023 in Chengdu, promoting Hong Kong's legal and dispute resolution services. Check out the [video of SJ's opening address](#) and the [event photos](#).

Mediation Forum held during the Hong Kong Legal Week 2023. Check out the [transcript of DSJ's opening remarks](#) and the [event video](#).

第五次粵港澳大灣區法律部門聯席會議 Fifth Guangdong-Hong Kong-Macao Greater Bay Area Legal Departments Joint Conference



第五次粵港澳大灣區法律部門聯席會議於 2023 年 12 月 7 日舉行，就共同構建通用線上爭議解決平台、推進涉外法治人才培養等議題達成共識。三方在《[粵港澳大灣區調解員資格資歷評審標準](#)》的基礎上，就各自制定調解員資格資歷評審細則及推進設立大灣區調解員名冊的工作等議題深入討論。

The Fifth Guangdong-Hong Kong-Macao Greater Bay Area Legal Departments Joint Conference was held on 7 December 2023, during which consensus on issues including establishing collaborative online dispute resolution platform and enhancing measures to nurture foreign-related legal talents was reached. The three parties have, on the basis of the [Greater Bay Area Mediator Accreditation Standards](#), conducted in-depth discussions on various topics, such as the respective formulation of mediator accreditation rules of each place and the work on promoting the establishment of panels of GBA mediators.

知識產權培訓課程：特別課堂 — 「調解為先」承諾書 IP Training Programme: Special Lecture - “Mediate First” Pledge



知識產權培訓課程於亞洲知識產權營商論壇 2023 期間舉辦。律政司代表於 2023 年 12 月 8 日舉辦了特別課堂—「調解為先」承諾書。課堂旨在向參加者介紹調解，以及推廣使用調解解決爭議。

As part of the IP Training Programme held during the Business of IP Asia Forum 2023, representative from the Department of Justice delivered a special lecture on the “Mediate First” Pledge on 8 December 2023. The lecture aims to introduce mediation to the participants and promote its use in dispute resolution.

最新資訊

What's New

How much does mediation cost? Who will pay for the costs?

- Mediation costs vary depending on the circumstances of the case.
- The statistics relating to the average mediation costs for cases with mediation reports filed in the Court are available at the website of Hong Kong Judiciary on Mediation (see link on the back page).
- The fees of the mediator (who will typically charge on the basis of his or her respective hourly rate) and incidental expenses such as venue charges are normally paid by the parties in equal shares. Parties may choose to engage lawyers and experts to assist in their cases. These additional fees are to be paid by the parties who engage the services.
- Some institutions provide free mediation services under certain schemes, such as the Free Community Mediation Service Scheme and Free Mediation Service Scheme for Building Management of Home Affairs Department offered by the Hong Kong Mediation Centre. For further information, please visit the websites of the relevant institutions.

How long does mediation take?

- The duration of mediation varies depending on the circumstances of the case. Relevant factors include complexity of the case and the number of issues in dispute.
- The statistics relating to the average duration of a mediation for cases with mediation reports filed in the Court are available at the website of Hong Kong Judiciary on Mediation (see link on the back page).

What happens if no settlement is reached at the end of the mediation process?

If no settlement is reached in the course of the mediation, the parties may terminate the mediation and proceed with other modes of dispute resolution, such as arbitration or litigation.

Is it compulsory to participate in mediation?

No, mediation is entirely voluntary. Nevertheless, if there is an ongoing litigation concerning the dispute or that the dispute is later referred to the Court, the Court may take into account a party's unreasonable failure to mediate in exercising its discretion on costs. Adverse costs order may be awarded against that party. You may wish to refer to Practice Direction 31 – Mediation for more details.

Mediation Ordinance

The Mediation Ordinance (Cap. 620) came into force on January 1, 2013. It provides a legal framework for the conduct of mediation, without hampering the flexibility of the mediation process.

“Mediate First” Pledge Campaign

The “Mediate First” Pledge campaign was launched in 2009 by the Department of Justice to encourage the wider use of mediation. The purpose of the campaign is to encourage companies, organisations and individuals to make a pledge, namely the “Mediate First” Pledge. While the pledge is non-legally binding, it serves as a statement of commitment to first explore using mediation which is a flexible, amicable and constructive approach in resolving disputes.



《調解單張》現已出版！歡迎瀏覽網上版本 ([中文版](#) / [英文版](#))。

Our new Leaflet on Mediation has been published! Check out the online version ([Chinese](#) / [English](#)).

你知道以下有關調解的術語的意思嗎？答案可在快訊的最下方找到。

Do you know the meaning of these mediation-related terms? Answers are at the end of this Dispatch.

- 兒童包容性調解
Child-inclusive mediation
- 案件和解會議
Case Settlement Conference
- 調解員輔助的案件和解會議
Mediator-assisted Case Settlement Conference
- 「調解為先」承諾書
“Mediate First” Pledge

即將舉行的活動和培訓

Upcoming Events and Training

請密切留意我們即將舉辦的活動和培訓！

Stay tuned for our upcoming events and training!

- [2024 年調解徵文比賽](#)(2023 年 9 月至 2024 年 2 月)
[Mediation Essay Competition 2024](#) (Sep 2023 to Feb 2024)
- 投資法暨國際投資爭端調解技巧培訓課程(2024 年第一/第二季)(暫定)
Investment Law and Investor-State Mediator Training Course (Q1/Q2 2024)(tentative)
- 2024 年香港中學朋輩調解比賽(2024 年 2 月至 5 月)(暫定)
The Hong Kong Secondary School Peer Mediation Competition 2024 (Feb to May 2024)(tentative)
- 2024 年調解周及調解會議(2024 年 5 月 6-10 日)
Mediation Week cum Mediation Conference 2024 (6-10 May 2024)

還有更多...

And more...

了解更多

Learn More



調
解
字
典
MEDIATION GLOSSARY

ji4 tung4 baau1 jung4| sing3 tiu4 gaai2

兒 童 包 容 性 調 解

Child-inclusive mediation

兒童包容性調解讓孩子可以在父母不在場和保密的情況下和調解員會面。如孩子同意，調解員可以將他們表達的意見全部或部分轉達給父母。兒童包容性調解給孩子一個表達心聲的機會，從而令父母在分開後能為他們作最好的撫養安排。

Child-inclusive mediation (“CIM”) allows children to speak with a mediator in the absence of their parents in a confidential session. With the children’s consent, the mediator may then wholly or partly relay children’s view to their parents. CIM aims to let children express their concern. This facilitates the making of better post-separation parenting arrangements.




調
解
字
典
MEDIATION GLOSSARY

on3 gin6 wo4 gaai2 wui6 ji5

案 件 和 解 會 議

Case Settlement Conference

司法機構在近年推出案件和解會議，在案件管理過程中引入協助和解概念，培養訴訟人及其法律代表樂於嘗試和解的文化。案件和解會議聆案官會協助雙方縮窄爭議範圍，並檢視各方之間無損權益的商議過程（包括任何附帶條款的和解提議及付款）。

Case Settlement Conference (“CSC”) was launched by the Judiciary in recent years to introduce the idea of assisted settlement into the case management process and to instill among litigants a culture of exploring settlement. A CSC master will assist the parties to narrow down issues in dispute and review previous without-prejudice negotiations (including sanctioned offers and payments).





tiu4 gai2 jyun4 fu6 zo6 dik1 on3 gin6 wo4 gai2 wui6 ji5
調解員輔助的案件和解會議

Mediator-assisted Case Settlement Conference (MCSC)

調解員輔助的案件和解會議結合案件和解會議和調解，藉著兩者所發揮的協同效應，利便訴訟各方更早達致案件整體和解或至少達成部分共識，令爭議能以更合乎成本效益的方法解決。

MCSC is a combination of Case Settlement Conference and mediation. The synergy between them facilitates the parties to reach an overall settlement or at least consensus on some issues at an early stage so that disputes could be resolved in a more cost-effective way.



tiu4 gai2 wai4 sin1 sing4 nok6 syu1
調解為先承諾書

Mediate First Pledge

「調解為先」承諾書不具法律約束力。承諾人簽署承諾書時，代表他願意先探索使用調解來解決爭議，然後才嘗試其他爭議解決方式（包括在法庭進行訴訟）。

The “Mediate First” Pledge (“Pledge”) is not legally binding. By making the Pledge, the Pledgee acknowledges his willingness to first explore the use of mediation as a means to resolve disputes before resorting to other dispute resolution processes (including commencing proceedings in courts).



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簽署承諾書
Sign the Pledge



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