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Legal Advice Privilege – HK Court of Appeal Steers Away from Three Rivers

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On June 29, 2015, the Court of Appeal of the HKSAR handed down an important judgment relating to legal advice privilege.

The Court of Appeal decided to adopt the "dominant purpose test" when considering whether legal advice privilege should attach to a document that disagrees with the restrictive definition of "client" adopted by the English Court of Appeal in the case of *Three Rivers (No.5)*.

Consequently, whether legal advice privilege applies to an internal confidential document depends on whether it was produced or brought into existence with the dominant purpose that the document or its contents be used to obtain legal advice. The judgment is likely to be broadly welcomed in the in-house legal community.

The case is *Citic Pacific Limited v. Secretary for Justice* CACV 7/2012, and the judgment is available on the Hong Kong Judiciary website here.