

# HongKongEcho

Euro 8 / Hong Kong HK\$50

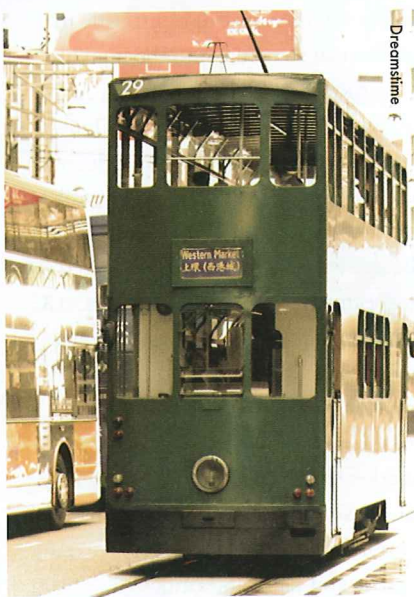
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## Turning HK into Silikong Valley?

**Improving HK's role in techno revolution**  
**Major changes ahead for mobile industry**  
**Tech entrepreneurs share tips on doing business in HK**

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## Hong Kong trams get a French twist

In April this year, Hong Kong's Wharf Holdings agreed to sell half of its stake in the city's iconic tramway to Veolia Transport, a division of French utility company Veolia Environnement. The Hong Kong-listed property and infrastructure firm will form a 50-50 joint venture with Veolia to own and operate Hong Kong Tramways.

Hong Kong Tramways has been operating tram services in Hong Kong since 1904 and currently consists of a fleet of 163 tramcars. It is the world's largest fleet of double-deck trams still in

operation, carrying an average of 240,000 passengers every day. Veolia Transport will be responsible for the operation and management of the network.

French Chamber Sponsors Gide Loyrette Nouel and Société Générale acted as advisors to Veolia Transport: Gide Loyrette Nouel as lead counsel - the due diligence and Hong Kong aspects of the transaction were handled in collaboration with Pinsent Masons - and Société Générale, as financial advisor to the French transport company.

## Corporate insolvency: the stone age of Hong Kong law

In November 2008, *the South China Morning Post*<sup>1</sup> asked: "Are Hong Kong's laws well enough equipped to deal with firms in financial distress, so as to provide such companies with the chance of surviving the economic downturn?" More recently, in its recommendations for the 2009-2010 Budget, the French Chamber stated again that it favours the implementation of a corporate rescue law in Hong Kong. So far, it still does not seem to be on the Legislative Council agenda... The Policy and Consultation Committee of the French Chamber has asked Eric-Jean Thomas, Senior Partner in *Thomas, Mayer & Associés* and member of this committee, to explain where we stand and why Hong Kong's Corporate Insolvency law is so archaic.

Although Hong Kong's legal system is based on English law, there is no equivalent in Hong Kong to the administration process available for restructuring companies in the UK. Likewise, there is no equivalent to the Chapter 11 process available in the US. And, of course, none of the statutory

measures which exist in France in the field of recovery or safeguard are available to companies that are confronted with economic difficulties and temporary insolvency.



The Companies Ordinance of 1997 regulates corporate insolvency but does not provide for any rescue mechanisms. It is not even possible for a company to seek the protection of the courts, and company directors have no remedies available to protect it from aggressive legal actions from creditors. In 1990 the Law Reform Commission of Hong Kong appointed a sub-committee on insolvency which, in 1995, published a Consultation Paper on Corporate Rescue and Insolvent Trading.

However, 14 years later, none of sub-committee's recommendations have been implemented and insolvency law in Hong Kong remains in the Stone Age.

For years, the necessary reform was held up under the pretence of the issue of how to deal with the rights of workers in a rescue process. But today it appears more likely that a credo of ultra liberalism is the reason for not allowing judges to play a role in the restructuring of insolvent companies.

Obviously the economic and social costs of this attitude are totally disregarded, but the economic downturn which Hong Kong is experiencing may throw a different light on the issue and allow for a new age in the field of company restructuring.

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<sup>1</sup> «Can HK laws handle a serious downturn», David Kidd, *South China Morning Post*, November 10, 2008