

ITEM FOR FINANCE COMMITTEE

HEAD 92 – DEPARTMENT OF JUSTICE

Subhead 002 Allowances

HEAD 46 – GENERAL EXPENSES OF THE CIVIL SERVICE

Subhead 013 Personal allowances

Members are invited to approve the rates of Special Posting Allowance and Rent Allowance for a Government Counsel to be posted to the Permanent Bureau of the Hague Conference on Private International Law in the Hague, the Netherlands.

PROBLEM

The existing mechanism for calculating the rates for Special Posting Allowance (SPA) and Rent Allowance (RA) does not cover postings in the Netherlands. We therefore need to determine the SPA and RA rates for a Government Counsel (GC) (MPS 27 - 44) to be posted to the Permanent Bureau of the Hague Conference on Private International Law (the Hague Conference) in the Hague, the Netherlands.

PROPOSAL

2. The Secretary for Justice (SJ), with the support of the Secretary for the Civil Service, proposes to –

- (a) pitch the SPA rate at that applied to officers posted to the Hong Kong Economic and Trade Office (HKETO) in Brussels; and
- (b) set the rate for RA on the basis of the mid-monthly rent for a furnished apartment with two bedrooms in a decent residential area in Amsterdam, the Netherlands as reported in the Worldwide Cost of Living Survey conducted in September 2000.

/JUSTIFICATION

JUSTIFICATION***Posting to the Permanent Bureau of the Hague Conference***

3. The Hague Conference is an inter-governmental international organisation, the membership of which is limited to States. It works for the progressive unification of the rules of private international law through negotiation and drafting of multilateral treaties and conventions in the different fields of private international law. The Hague Conference is served by a secretariat known as the "Permanent Bureau" which prepares and organises the Plenary Sessions and the Special Commission for the Conference, and carries out the basic research required for any subject that the Conference takes up. The Permanent Bureau also maintains and develops contacts with international organisations and with the national organs, experts and delegates of the Member States of the Hague Conference and the Central Authorities designated by the States Parties to the Hague Conventions on judicial and administrative co-operation.

4. In his official visit to the Mainland, the Secretary General of the Hague Conference stopped over Hong Kong in May 1999 and discussed with the SJ the subject of Hong Kong's participation in the Hague Conference. There was a mutual desire for Hong Kong to participate more actively in the work of the Hague Conference and to assist the Permanent Bureau by means of the temporary secondment of a GC from the Department of Justice (D of J) to the Permanent Bureau.

5. We consider that the secondment would enhance the international profile and perception of Hong Kong in an important international and multilateral legal forum. It confirms Hong Kong's increased commitment in the work of the Hague Conference. It will also enrich the experience and widen the exposure of the counsel selected for the posting. The experience that the GC will gain from the posting would benefit the Department in the area of work related to the interpretation and implementation of the Hague Conventions. With such considerations, the Permanent Bureau and the D of J have agreed in principle to the secondment of a GC to the Permanent Bureau to participate in its work for six months, commencing from August 2001, with the possibility of extending the period to nine months.

6. The GC will work in the Permanent Bureau as a fully qualified professional, undertaking legal research and preparing for meetings for the Bureau. The duty list of the counsel is at Enclosure 1.

Encl. 1

/Allowances

Allowances for the overseas posting

7. Under the existing arrangements, an SPA and an RA are payable to Hong Kong Special Administrative Region (HKSAR) Government officers posted outside Hong Kong. The SPA is to meet the extra costs of living in the city of posting and the additional personal costs arising from representational functions. The RA is to assist an officer to rent accommodation in the city of posting. Since the HKSAR Government has no overseas office in the Netherlands, there are no established SPA and RA rates for the GC to be posted to the Permanent Bureau of the Hague Conference. We therefore need to determine the SPA and RA rates for this overseas posting.

Rate of SPA

8. We propose to model the rate of SPA for the GC to be posted to the Hague on that payable to officers posted to the HKETO in a city with a similar cost of living as the Hague. As no cost of living survey is available specifically for the Hague, we have consulted the Consulate-General of the Netherlands in Hong Kong who advised that the cost of living there is similar to that in Amsterdam. According to the Worldwide Cost of Living Survey¹, the cost of living in Amsterdam is in turn close to that in Brussels. We set out at Enclosure 2 a comparison of the cost of living between Brussels and Amsterdam, based on the most up-to-date edition of the Survey conducted in September 2000. Given that the cost of living in the Hague is similar to that in Brussels, we propose to pitch the SPA rate for the GC at that applicable to officers posted to the HKETO in Brussels, including any future adjustment to the rate which may be applied to the HKETO in Brussels during the period of secondment. The proposed rate for the GC, who is a single officer, is currently NLG 1,857 which is equivalent to about HK\$5,896. Details of the calculation are set out at Enclosure 3.

Rate of RA

9. Unlike the SPA for the GC the rate of which we can derive based on an established formula as illustrated in Enclosure 3, the RA rates for officers posted to HKETOs are determined having regard to the rates given to the diplomatic missions of other countries in the host cities. Since there is not a post in the Brussels HKETO comparable to the GC rank, we are unable to model the RA rate for the GC on that applicable to officers posted to the HKETO in Brussels. In order to determine an appropriate rate of RA for the GC, we have made reference to information on the rental for residential units in Amsterdam, since the cost of living in Amsterdam is the same as that in the Hague. On the basis of the

/information

¹ The Worldwide Cost of Living Survey is a well-respected and widely used survey adopted by many corporations and organisations in devising remuneration packages for staff posted overseas.

Encl. 4

information, we propose to set the rate at the mid monthly rent for a furnished apartment with two bedrooms, one living room and one dining room (average floor area 70 to 125 square metres), in a decent residential area as reported in the Worldwide Cost of Living Survey conducted in September 2000 (an extract of which is at Enclosure 4). The proposed rate is NLG 3,200 per month which is equivalent to about HK\$10,162. This rate represents the ceiling for reimbursement of accommodation expenses by the GC. In accordance with the relevant Civil Service Regulation, the GC will be required to pay rent to the Government at 7½% of his monthly salary.

FINANCIAL IMPLICATIONS

10. The proposal, if approved, will result in an additional expenditure in the form of SPA and RA estimated at HK\$96,000 in 2001-02 for a six-month secondment from August 2001 to January 2002, or HK\$128,000 in 2001-02 and HK\$16,000 in 2002-03 if the secondment is extended to nine months up to April 2002. We have included sufficient provision in the 2001-02 Estimates to meet the cost of the proposal.

BACKGROUND INFORMATION

11. China has been a member of the Hague Conference since 1987. D of J began to participate in the activities of the Hague Conference in November 1998 by attending the negotiation of a Convention on Jurisdiction and Effects of Foreign Judgments as a member of the Chinese delegation. The Department has also participated in the Special Commission of the Hague Conference on the Hague Convention on Child Abduction (which applies to the HKSAR) and in a meeting of experts convened by the Permanent Bureau on the law applicable to securities held as collateral. A total of seven Hague Conventions are now applicable to the HKSAR.

12. At the early stages of the secondment proposal, we informed the Central People's Government of the possibility of the secondment of a counsel from the D of J to the Permanent Bureau. This was through the leader of the Chinese delegation to the Hague Conference.

13. The existing mechanism for determining SPA and RA for officers posted to representational posts overseas was approved by the Finance Committee (FC) on 18 January 1991 (vide FCR(90-91)145). The Administration is conducting a review on SPA and RA and will seek the approval of FC on the revised systems when they are finalised.

/CONSULTATION

CONSULTATION WITH LEGISLATIVE COUNCIL PANEL

14. We consulted the Legislative Council Panel on Administration of Justice and Legal Services on the proposal on 15 May 2001. Members considered the proposal reasonable and expressed full support.

Department of Justice
May 2001

**Main duties of the Government Counsel
at the Permanent Bureau of the Hague Conference
on Private International Law**

The Government Counsel is responsible to the Secretary General of the Hague Conference for the following –

1. to carry out research on particular points of private international law or comparative law, relevant either to the operation of existing Hague Conventions or to the future work of the Conference;
2. to prepare and take part in the various meetings organised by the Permanent Bureau (working groups, training seminars, Special Commissions, Diplomatic Sessions); and
3. to carry out preparatory work of translation (from Chinese into English) or documentary research, e.g. the preparation of preliminary working documents such as comparative studies of different legal systems, in accordance with the agenda of the Conference.

**Comparison of the Cost of Living between Brussels and Amsterdam
as extracted from the Worldwide Cost of Living Survey
conducted in September 2000**

	Brussels	Amsterdam
Annual inflation	2.90%	2.50%
General index (Mean)	63	65

Note –

The general index (mean) is calculated on the basis of the arithmetic mean of the price levels of ten major categories of products and services in the two selected cities. When Hong Kong has a general index of 100, the general indexes (mean) of Brussels and Amsterdam are 63 and 65 respectively.

**Proposed Special Posting Allowance (SPA)
for a Government Counsel to be posted
to the Hague Conference**

Rank	Monthly SPA (NLG)
Government Counsel (GC)	1,857 (approximately equivalent to HK\$5,896)

Notes –

- (1) The monthly SPA rate is derived from the following formula –

SPA rate = Marker rate x Rank differential x Family differential

As approved by FC in 1991 (vide FCR(90-91)145), the basic design of the SPA is to use a “marker rate”, i.e. the rate of allowance payable to a single Administrative Officer Staff Grade C, a rank represented in all HKETOs, to generate the rates for officers of other ranks and family circumstances, subject to a minimum level of 60% of the marker rates to safeguard the amount of allowance received by officers at the junior level.

- (2) Proposed marker rate for the Hague = *NLG 3,095 (equivalent to *HK\$9,827)

(based on the marker rate of BEF 56,265 for Brussels, which has a cost of living index close to Amsterdam and the Hague)

* *As advised by the Treasury, the exchange rate on 2.5.2001 (the first working day in May 2001) for HK\$: BEF was 17.465 : 100. The exchange rate for HK\$: NLG was 317.55 : 100.*

- (3) Rank differential – 0.6

(The rank differential for the GC is taken to be that for comparable ranks in HKETOs.)

- (4) Family differential –

Single officer : 1

Enclosure 4 to FCR(2001-02)8

**Monthly Rent in Decent Residential Area
in Amsterdam, the Netherlands
According to the Worldwide Cost of Living Survey
conducted in September 2000**

Furnished apartments

	Moderate		Mid		High	
	NLG	HK\$	NLG	HK\$	NLG	HK\$
3 room (1 bedroom, 1 living/dining room)	1,600.00	5,080.80	2,000.00	6,351.00	2,900.00	9,208.95
4 room (2 bedrooms, 1 living/dining room)	2,500.00	7,938.75	3,200.00	10,161.60	4,500.00	14,289.75

Unfurnished apartments

	Moderate		Mid		High	
	NLG	HK\$	NLG	HK\$	NLG	HK\$
4 room (2 bedrooms, 1 living/dining room)	2,250.00	7,144.88	3,200.00	10,161.60	4,250.00	13,495.88
5-6 room (3 bedrooms, 1 living/dining room)	3,500.00	11,114.25	4,200.00	13,337.10	5,500.00	17,465.25
7-9 room (4 bedrooms, 1 living/dining room)	7,500.00	23,816.25	9,000.00	28,579.50	10,000.00	31,755.00

The figures on Hong Kong dollar equivalence of the Netherlands Guilders are calculated at the exchange rate on 2.5.2001 (the first working day in May 2001) of HK\$: NLG being 317.55 : 100.