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By FAX 2509 9055

Miss Flora Tai
Clerk to Panel
LegCo Panel on Home Affairs
Legislative Council Building
8 Jackson Road
Hong Kong

Dear Miss Tai,

ICESCR

At the meeting of the Home Affairs Panel on 16 July 2001, the Concluding Observations of UN Committee on Economic, Social and Cultural Rights were discussed. Those Concluding Observations contained a statement to the effect that the ICESCR is not “promotional” or “aspirational”.

During the meeting, the Department of Justice was asked whether it would undertake that, if the point arises in a case involving the SARG in court, our counsel will draw to the attention of the court that statement. I undertook to give a written reply to that question.

In considering that question, this department has paid particular attention to the following facts and principles.

- (1) A copy of the Concluding Observations has already been sent to the Judiciary.

- (2) The conduct of counsel in court is regulated by the Code of Conduct of the Bar of the HKSAR, which contains express provisions as to the information that counsel is required to give to the court.
- (3) No litigant should come under political pressure to give undertakings as to the manner in which it conducts its litigation. Such pressure would undermine the level playing field that is essential to the impartial administration of justice.

Having regard to those facts and principles, we have concluded that it is neither necessary nor appropriate to give such an undertaking.

Yours sincerely,

(Bob Allcock)
Solicitor General

cc : Secretary for Home Affairs (FAX : 2591 6002)
(Attn Mr Ricky Leung)