

**Supplementary Information on the
Use of Official Languages for Conducting Court Proceedings**

(A) Guidelines for judges^(Note) regarding the use of Chinese in court proceedings

1. The Judiciary Administration is requested to provide information on the purpose and status of the guidelines and whether the nine factors included in the guidelines are accorded any weighting.

2. In accordance with section 5(1) of the Official Languages Ordinance (“the Ordinance”), a judge may use either English or Chinese or both in conducting court proceedings.

3. The judge has the discretion to decide when he should conduct court proceedings in Chinese. In January 1998, the then Chief Judge of the High Court, after consultation with the Chief Justice, issued guidelines for judges regarding the use of Chinese in court proceedings. These guidelines are intended to offer judges assistance in the making of such decision and are not meant to fetter the exercise of their discretion. This is stated clearly in the opening paragraph of the guidelines. These guidelines are for the reference of judges, and they are not binding.

4. It should be noted that Rule 3(1) of the High Court Civil Procedure (Use of Language) Rules, Chapter 5 stipulates that in deciding to use either or both of the official languages in any proceedings or a part of any proceedings under section 5(1) of the Ordinance, a judge shall give paramount consideration to the just and expeditious disposal of the proceedings or the part of the proceedings, as the case may be. This guiding principle is repeated in paragraph 2 of the guidelines. The nine factors listed are factors which the judge may take into consideration in exercising his discretion. These nine factors are neither prescriptive nor exhaustive. No weighting is and should be accorded to any of them.

(B) Data on the number of requests to conduct criminal proceedings in Chinese

5. The Judiciary Administration is asked to find out whether there are any data on how many requests to conduct criminal proceedings in Chinese have been acceded to or rejected. We would like to advise Members that such data are not available.

(Note) Reference to judges includes both judges and judicial officers.

(C) **Updated information on the use of Chinese in conducting trials**

6. A table showing the ratios between the use of English and Chinese in conducting trials at the different levels of courts in 2002 is at the Annex.

(D) **Implications of conducting court proceedings in Putonghua**

7. As has been clearly explained in an earlier paper issued to Members on 6 December 2002, notwithstanding that Putonghua can be used as an official language in conducting court proceedings, whether the judge uses Putonghua or not for the proceedings or part thereof is a matter of discretion for the judge. In case a judge decides to use Putonghua as an official language in conducting court proceedings or part thereof, other parties to the proceedings who are not proficient in Putonghua will be assisted by a court interpreter. There are therefore no operational problems arising from the use of Putonghua in conducting court proceedings.

8. Moreover, the Judiciary will continue to monitor the demand for the use of Putonghua and if necessary, consider additional training for judges to increase the Judiciary's capability in this regard.

**The ratios between English and Chinese hearings
at the different levels of courts in 2002**

| | Trials in English | Trials in Chinese |
|-------------------------------|------------------------------|------------------------------|
| Court of Final Appeal | 100% | 0% |
| Court of Appeal | | |
| Criminal cases | 66.9% | 33.1% |
| Civil cases ^(Note) | 2.6% | 97.4% |
| Court of First Instance | | |
| Criminal cases | 75.1% | 24.9% |
| Civil cases | 83.4% | 16.6% |
| Appeals from lower courts | 80.0% | 20.0% |
| District Court | | |
| Criminal cases | 70.9% | 29.1% |
| Civil cases | 61.6% | 38.4% |
| Magistrates' Courts | | |
| Charge cases | 31.9% | 68.1% |
| Summonses | 6.2% | 93.8% |

(Note) In 2001, 90% of the civil appeal cases filed were Right of Abode cases, and most of these cases were tried in 2002. Most of these cases were tried in Chinese.