

For information

LegCo Panel on Administration of Justice and Legal Services 2008-09 Policy Initiatives of the Department of Justice

Introduction

This paper describes the policy initiatives of the Department of Justice for the year 2008-09.

Work of the Department of Justice

2. The Department of Justice is Government's legal adviser. Our duties and responsibilities cover a wide range of activities including provision of legal services in respect of prosecutions and civil litigation, giving legal advice to government bureaux and departments, drafting legislation, promoting Bills for which the Secretary for Justice has policy responsibility, handling legal cooperation with other jurisdictions, promoting the understanding of the rule of law, amongst other matters. The on-going initiatives set out below are only part of the Department's work that warrants highlighting. Steady progress has been made in respect of these on-going initiatives and we would continue to pursue these items in the coming year.

Developing the Infrastructure for Economic Growth

3. We have four on-going initiatives in pursuance of developing the infrastructure for economic growth. We are –

- Promoting the development of Hong Kong as a regional centre for legal services and dispute resolution.
- Finalising legislation to reform the law of Arbitration to provide for the unification of legal regimes for domestic and international arbitration and make both the law and the process more user-friendly.

- Reviewing the findings of the consultants' report on the supply of, and demand for, legal services in the community and considering the way forward in the light of the recommendations made in the report.
- Exploring further opportunities for the legal profession to tap into the Mainland legal service under CEPA and strengthening co-operation between the legal professions in Hong Kong and the Mainland.

4. Steady progress has been made in promoting Hong Kong's development as a regional centre for legal services and dispute resolution. The demand for arbitration services is strong. The cases handled by the Hong Kong International Arbitration Centre have been increasing and stood at 448 in 2007 as compared with 394 and 281 cases in 2006 and 2005 respectively. Furthermore in March this year, the International Court of Arbitration (ICA) of the International Chamber of Commerce (ICC) announced its decision to set up a branch of its Secretariat in Hong Kong to administer ICC arbitrations in the Asia Pacific region. This is ICA's first branch secretariat in Asia. The presence of international arbitration institutions would help enrich the arbitral community in Hong Kong and is an endorsement of Hong Kong's position as a premier centre for international arbitration services.

5. In addition, updating our arbitration legislation will make Hong Kong an even more attractive place to conduct arbitration. In conjunction with the Working Group on Arbitration Law Reform, we are considering the responses to the consultation on the draft Arbitration Bill conducted earlier this year. We plan to introduce an Arbitration Bill into the Legislative Council in the second quarter of 2009.

6. As part of our efforts to promote the development of Hong Kong as a regional centre for legal services, we hosted the Third Asia Pacific Regional Conference of the Hague Conference on Private International Law last month. Hague Conventions are effective instruments to facilitate international co-operation in a wide range of civil and commercial legal matters and the objectives of the Conference were

to promote understanding of Hague Conventions in the region and seek ways and means of improving international co-operation in cross-boarder cases affecting individuals and commercial enterprises. More than 100 delegates from 27 countries in the Asia Pacific region, including attorneys general, ministers of justice and secretaries of justice, senior Government officials, prominent lawyers and legal academics participated in the Conference. We would continue to share our experience on the application of Hague Conventions with other jurisdictions in the region.

7. In July 2004, the department commissioned consultants to undertake a study into the supply of, and demand for, legal services in the community. In May this year, we briefed the Panel on the findings of the Study and the consultants' report has been provided to various stakeholders. We are reviewing the findings and will be considering the way forward.

8. On the legislative front, apart from the Arbitration Bill mentioned above, we also aim to introduce a Bill to amend the Legal Practitioners Ordinance to implement the recommendations made in the Report of the Working Party on Solicitors' Rights of Audience. We are also taking forward proposals for legislation limiting the liability of solicitors for the negligence of their partners.

9. Under the CEPA and its Supplements, the legal profession of Hong Kong enjoy easier and wider access to the Mainland legal services market and the Department has worked closely with the relevant Mainland organs with a view to expanding the scope of CEPA, consulting with the Law Society and the Bar Association as and when necessary. Since the implementation of CEPA and up to March 2008, six Hong Kong law firms have entered into association with Mainland law firms. As of October 2008, 76 representative offices have been set up in the Mainland by Hong Kong law firms and 14 have established more than one representative offices in the Mainland. We will, in conjunction with the legal professional bodies, continue to promote our legal services and the qualities that make Hong Kong an ideal centre for legal services and dispute resolution by attending conferences and promotional activities whether held in the Mainland or in Hong Kong.

Optimising Our Demographic Structure, Attracting Talent

10. Our on-going initiative under this heading relates to the work of the Standing committee on Legal Education and Training. We participate in the work of the Standing Committee to keep under review and make recommendations on the system, and provision of legal education and training in Hong Kong, including the provision of vocational training of prospective legal practitioners.

Investing for a Caring Society

11. On mediation, we co-organised a large scale Mediation Conference last November in which we shared experience with other jurisdictions on the development of mediation. Participants came from different sectors of our community and the Conference has helped to raise public awareness on mediation and highlighted the benefits of resolving disputes through mediation rather than litigation.

12. The Working Group on Mediation chaired by the Secretary for Justice was formed earlier this year. In mapping out how mediation can be more effectively and extensively applied in both commercial disputes and at the community level, the Working Group examining the subject from three perspectives –regulatory framework, accreditation and training and public education and publicity. We briefed the AJLS Panel on this matter in June 2008. The Working Group aims to complete its tasks in the first half of 2010.

Developing Democracy and Enhancing Governance

13. We are –

- Furthering the standards of advocacy and preparation in criminal cases through the provision of comprehensive training arrangements for prosecutors.
- Enhancing the quality of criminal justice by promoting transparency

in public prosecutions, liaising closely with justice partners (including the Police, the Independent Commission Against Corruption and the departmental prosecutors) and reviewing the disclosure arrangements of law enforcement agencies.

- Promoting co-operation amongst prosecutors at the global level by actively participating in the work of the international Association of Prosecutors
- Continuing to enhance the law drafting skill of law draftsmen through an in-house mentorship programme and enrich their drafting experience by organising training programmes.
- Continuing the Bilingual Law Information System with enhanced features to provide easy access to our bilingual laws of Hong Kong

14. In the area of training for prosecutors, the Prosecutions Division will continue to organise in-house lectures and seminars to enhance the forensic skills of prosecutors and to hone their court-room techniques, and where practicable these will be shared with the legal profession as a whole. New prosecutors will be exposed to frontline advocacy, including the opportunity to appear as working juniors on trials and appeals. Every effort will be made to enhance the quality of criminal justice through the development of a system of public prosecutions which is modern and transparent, and which accords with international best practice. Prosecutors will be kept abreast of latest developments in the law and of the requirements of the courts. At the domestic level, prosecutors will work closely with the law enforcement agencies in the interests of more effective prosecutions. At the international level, prosecutors will liaise with their counterparts in other jurisdictions over the sharing of information and experiences and the development of globalised anti-crime strategies in relation to both traditional and new forms of criminality.

15. The Law Drafting Division will continue to enhance the drafting skills of counsel through the in-house mentorship programme,

training programmes and the general readiness of experienced counsel to guide and assist other counsel on drafting issues. A 6 months in-house legislative drafting training course for a group of junior counsel is nearing completion. An in-house committee has been established in the Law drafting Division to review a range of drafting techniques and legislative style in general with a view to improving the readability of Hong Kong legislation. Furthermore, the Law Drafting Division will continue to maintain BLIS but is also engaged in a project to enhance BLIS in order to improve the community's free and ready access to the statutes of Hong Kong.

16. The Department of Justice welcomes comments by members of the Panel on these initiatives and will continue to work with the Panel as we take those initiatives forward.

Department of Justice
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