

立法會
Legislative Council

LC Paper No. CB(3) 720/09-10

Ref. : CB(3)/M/OR

Tel : 2869 9205

Date : 24 May 2010

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 9 June 2010

**Proposed resolutions under Article 73(7) of the Basic Law of the Hong Kong
Special Administrative Region of the People's Republic of China and
section 7A of the Hong Kong Court of Final Appeal Ordinance**

I forward for Members' consideration two proposed resolutions which the Chief Secretary for Administration will move at the Council meeting of 9 June 2010 under Article 73(7) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and section 7A of the Hong Kong Court of Final Appeal Ordinance. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The speeches, in both English and Chinese versions, which the Chief Secretary for Administration will deliver when moving the proposed resolutions, are also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

BASIC LAW OF THE HONG KONG SPECIAL
ADMINISTRATIVE REGION OF THE
PEOPLE'S REPUBLIC OF CHINA
AND
HONG KONG COURT OF FINAL APPEAL
ORDINANCE

RESOLUTION

(Under Article 73(7) of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China and
section 7A of the Hong Kong Court of Final
Appeal Ordinance (Cap. 484))

RESOLVED that the appointment of the Honourable Mr. Justice Geoffrey
Ma Tao-li as the Chief Justice of the Hong Kong Court of Final
Appeal pursuant to section 6 of the Hong Kong Court of Final
Appeal Ordinance (Cap. 484) be endorsed.

(Translation)

**Speech by the Chief Secretary for Administration
at the meeting of the Legislative Council on 9 June 2010**

**Resolution under Article 73(7) of the Basic Law and
Section 7A of the Hong Kong Court of Final Appeal Ordinance**

**Appointment of the Chief Justice
of the Court of Final Appeal**

Mr. President,

I move that this Council endorses the appointment of the Honourable Mr. Geoffrey MA Tao-li as the Chief Justice of the Court of Final Appeal (“CFA”).

Chief Justice of the CFA

2. The Chief Justice is the President of the CFA and the head of the Judiciary. He is charged with the administration of the Judiciary and the execution of various statutory powers and functions vested in him.

3. Pursuant to Article 88 of the Basic Law and the Judicial Officers Recommendation Commission (“JORC”) Ordinance (Cap. 92), judges of the courts of the HKSAR shall be appointed by the Chief Executive on the recommendation of the JORC. Article 90 of the Basic Law provides that in the case of the appointment of judges of the CFA, the Chief Executive shall obtain the endorsement of the Legislative Council.

The current appointment

4. The incumbent Chief Justice Mr. Andrew Li will cease service on 31 August 2010. The JORC has recommended to the Chief Executive the appointment of Mr. Justice Ma, currently Chief

Judge of the High Court, as the Chief Justice of the CFA with effect from 1 September 2010.

5. The curriculum vitae of Mr. Justice Ma has been set out in the Administration's paper issued to the Legislative Council on 8 April 2010. Mr. Justice Ma was appointed as a Recorder of the High Court in November 2000 until his appointment as a Judge of the Court of First Instance of the High Court in December 2001. He heard cases involving various aspects of civil law. Mr. Justice Ma was appointed as a Justice of Appeal of the Court of Appeal of the High Court in November 2002, hearing both criminal and civil appeals. Mr. Justice Ma was appointed as the Chief Judge of the High Court in July 2003, leading the High Court both judicially and administratively.

6. Mr. Justice Ma is an outstanding lawyer with exceptional judicial, professional and personal qualities. He is a man of high integrity and commands strong respect within and outside the Judiciary, and he is held in high esteem by members of the legal profession. Having served with distinction as the Chief Judge of the High Court for nearly seven years, Mr. Justice Ma also has proven administrative and leadership qualities. The Chief Executive is pleased to accept the JORC's recommendation on the appointment of Mr. Justice Ma as the Chief Justice of the CFA. Subject to the endorsement of this Council, the appointment would take effect on 1 September 2010.

7. In accordance with the procedures previously endorsed by the Legislative Council, the Administration informed the House Committee on 8 April 2010 that the Chief Executive had accepted the recommendation of the JORC on this appointment. Representatives from the Administration and the Secretary to the JORC attended the meeting of the Subcommittee on Proposed Senior Judicial Appointments set up under the House Committee on 4 May and responded to Members' questions. I would like to thank the Honourable Margaret Ng, Chairman of the Subcommittee, and other Members of the Subcommittee for their support of the proposed appointment.

8. I invite Members to endorse the appointment.

BASIC LAW OF THE HONG KONG SPECIAL
ADMINISTRATIVE REGION OF THE
PEOPLE'S REPUBLIC OF CHINA
AND
HONG KONG COURT OF FINAL APPEAL
ORDINANCE

RESOLUTION

(Under Article 73(7) of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China and
section 7A of the Hong Kong Court of Final
Appeal Ordinance (Cap. 484))

RESOLVED that the appointment of –

- (a) the Honourable Mr. Justice Robert Tang Ching;
 - (b) the Honourable Mr. Justice Frank Stock; and
 - (c) the Honourable Mr. Justice Michael John Hartmann,
- as non-permanent Hong Kong judges of the Hong Kong Court of
Final Appeal pursuant to section 8 of the Hong Kong Court of
Final Appeal Ordinance (Cap. 484) be endorsed.

(Translation)

**Speech by the Chief Secretary for Administration
at the meeting of the Legislative Council on 9 June 2010**

**Resolution under Article 73(7) of the Basic Law and
Section 7A of the Hong Kong Court of Final Appeal Ordinance**

**Appointment of Non-permanent Hong Kong Judges
to the Court of Final Appeal**

Mr. President,

I move that this Council endorses the appointment of the Honourable Mr. Justice Robert TANG Ching, the Honourable Mr. Justice Frank STOCK and the Honourable Mr. Justice Michael John HARTMANN as non-permanent Hong Kong judges to the Court of Final Appeal (“CFA”).

Constitutional and legal framework

2. The CFA is the final appellate court in Hong Kong, hearing both civil and criminal appeals. It consists of the Chief Justice and the permanent judges. Non-permanent judges may be invited to sit. At present, there are 14 non-permanent judges. Three of them come from Hong Kong and 11 come from other common law jurisdictions.

3. When hearing and determining appeals, the CFA is constituted by five judges, which include the Chief Justice, three permanent judges, and one non-permanent Hong Kong judge or one judge from another common law jurisdiction.

4. As mentioned earlier when I moved the motion on the appointment of the Chief Justice, the Basic Law and the Judicial Officers Recommendation Commission (“JORC”) Ordinance

(Cap. 92) require that judges of the courts of the HKSAR shall be appointed by the Chief Executive on the recommendation of the JORC and that the Chief Executive shall obtain the endorsement of the Legislative Council in the appointment of judges of the CFA.

The current appointments

5. The JORC has recommended to the Chief Executive the appointment of Mr. Justice Tang, Mr. Justice Stock and Mr. Justice Hartmann as non-permanent Hong Kong judges to the CFA.

6. The curriculum vitae of the three judges have been set out in the Administration's paper issued to the Legislative Council on 8 April 2010. Mr. Justice Tang has great experience in the civil field and had a very successful civil practice. He was appointed as a Judge of the Court of First Instance of the High Court ("CFI Judge") in April 2004, and was appointed as a Justice of Appeal of the Court of Appeal of the High Court and Vice-President of the Court of Appeal in January 2005 and November 2006 respectively.

7. Mr. Justice Stock was appointed as a CFI Judge and a Justice of Appeal of the Court of Appeal of the High Court in May 1992 and October 2000 respectively. He was appointed as Vice-President of the Court of Appeal in July 2009. Mr. Justice Stock has considerable experience in both criminal and civil cases and has considerable expertise in the growing area of public law.

8. Mr. Justice Hartmann was appointed as a CFI Judge in March 1998 and was elevated to Justice of Appeal of the Court of Appeal of the High Court in September 2008. Mr. Justice Hartmann has rich experience and expertise in a number of specialized areas of the law, namely family, public and constitutional law.

9. The three judges are outstanding lawyers who have considerable experience in handling criminal and civil cases. The

Chief Executive is pleased to accept the recommendation of the JORC. Their appointments will increase the number of non-permanent Hong Kong judges from three to six and will provide the much-needed flexibility in deployment to deal with the caseload of the CFA. Subject to the endorsement of this Council, the Chief Executive will make the appointments.

10. In accordance with the procedures previously endorsed by the Legislative Council, the Administration informed the House Committee on 8 April 2010 that the Chief Executive had accepted the recommendation of JORC on the appointments. Representatives from the Administration and the Secretary to the JORC attended the meeting of the Subcommittee on Proposed Senior Judicial Appointments set up under the House Committee on 4 May and responded to Members' questions. The Subcommittee supported the proposed appointments. Regarding the concerns of some Members over the existing mechanism whereby serving Justices of Appeal of the Court of Appeal of the High Court can be appointed as non-permanent Hong Kong judges to the CFA, I would like to point out that the existing mechanism is in line with the relevant provisions of the CFA Ordinance (Cap. 484). I understand that the issue will be discussed by the Panel on Administration of Justice and Legal Services later. The Judiciary and the Administration would be pleased to provide relevant information to the Panel to facilitate its discussion.

11. I invite Members to endorse the appointments.