

NOTE FOR FINANCE COMMITTEE

Legal expenses for briefing out cases not covered by Approved Fee Schedules (2008-09 and 2009-10)

INTRODUCTION

At the Finance Committee (FC) meeting on 14 October 1981, Members delegated to the then Attorney General (now Secretary for Justice) and the Solicitor General the authority to negotiate and approve payment of higher fees for engaging barristers in private practice in cases of unusual complexity or length; and fees for professionals on matters briefed out which are not covered by the approved scale of fees. At the same meeting, the Administration agreed to provide Members with periodic reports indicating the levels of fees so negotiated and approved. This note reports on the expenditure incurred by the Department of Justice (the Department) within 2008-09 and 2009-10 on briefing out cases not covered by the approved fee schedules.

2. The Department has been briefing out certain criminal and civil cases, according to fee schedules approved by the FC¹, or at negotiated fees in specified circumstances. Briefing out is mainly to meet operational needs. In general, the Department may resort to briefing out when –

- (a) there is a need for expert assistance where the requisite skill is not available in the Department;

/(b)

¹ At the FC meeting held on 13 June 2003, Members gave approval for the Director of Administration to exercise the delegated authority to make adjustments to the approved fees provided that the extent of adjustment was no greater than the movement of the Consumer Price Index (C). Members also approved at the same meeting a downward adjustment to the rates of the approved fees by 4.3%. The adjusted rates have been effective since 4 July 2003. On 12 June 2007, the authority for approving adjustments to the approved fees was re-delegated to the Permanent Secretary for Home Affairs.

- (b) there is no suitable in-house counsel to appear in court for the Hong Kong Special Administrative Region;
- (c) there is a need for advice or proceedings involving members of the Department;
- (d) there is a need for continuity and economy, e.g. where a former member of the Department who is uniquely familiar with the subject matter is in private practice at the time when legal services are required; and
- (e) the size, complexity, quantum and length of a case so dictate.

In addition, some criminal cases are briefed out with the objective of promoting a strong and independent local Bar by providing work, particularly to the junior Bar, and of securing a pool of experienced prosecutors to supplement those within the Department. This practice is also intended to help change the commonly-held perception that all prosecutors must be government lawyers whereas the private Bar can represent only the defence in criminal cases.

Encl. 1 3. The approved schedule of fees for 2008-09 and 2009-10 is at Enclosure 1².

LEGAL EXPENSES NOT COVERED BY APPROVED FEE SCHEDULES FOR THE YEAR ENDING 31 MARCH 2009 AND THE YEAR ENDING 31 MARCH 2010

4. During the year ending 31 March 2009, the Department paid out a total of \$196,983,901 as briefing out expenses, while the total amount of briefing out expenses during the year ending 31 March 2010 was \$225,473,200. The breakdown of expenditure under *Subhead 000 Operational expenses* is as follows –

/Payment

² On 13 November 2009, with Legislative Council's endorsement, the rates of the approved criminal legal aid fees were adjusted upward by around 8%. As the Department uses the same scale of fees for briefing out, the briefing out fees for cases briefed since that date were adjusted accordingly.

	2008-09	2009-10
	\$	\$
Payment for hire of legal services and related professional fees		
(a) Briefing out of cases according to approved fee schedule	49,331,476	56,051,555
(b) Briefing out of cases at fees not covered by the approved scales	107,240,822	126,413,154
	<u>156,572,298</u>	<u>182,464,709</u>
 Payment for legal services for construction dispute resolution		
(c) Briefing out of construction dispute resolution cases at fees not covered by approved scales ³	40,411,603	43,008,491
	<u>196,983,901</u>	<u>225,473,200</u>

5. As regards paragraph 4(b), the Department briefed out various matters which were not covered by the approved scale of fees to lawyers, accountants, expert witnesses, consultants and appointed arbitrators. The amount of \$107,240,822 incurred in 2008-09 involved 584 cases, while the amount of \$126,413,154 incurred in 2009-10 involved 658 cases. Details are set out at Encl. 2 Enclosure 2.

6. As regards paragraph 4(c), the Department briefed out various matters which were not covered by any approved scale of fees to private practitioners engaged to undertake specialised work relating to construction dispute resolution. The amount of \$40,411,603 incurred in 2008-09 involved 20 cases, while the amount of \$43,008,491 incurred in 2009-10 involved 24 cases. Details are set out at Encl. 3 Enclosure 3.

 Department of Justice
 May 2012

³ There is no approved scale of fee for construction dispute resolution because it is not possible to fix scale fees for construction or other civil cases which vary by complexity and nature.

Approved scale of maximum fees for briefing out cases

	For cases briefed up to 12.11.2009 (rate effective since 4.7.2003)	For cases briefed from 13.11.2009 and onwards (rate effective since 13.11.2009)
(a) Court of Appeal	\$	\$
(i) brief fee	27,210	29,460
(ii) refresher fee per day	13,610	14,730
(b) Court of First Instance	\$	\$
(i) brief fee	20,410	22,100
(ii) refresher fee per day	10,210	11,050
(iii) conference per hour	1,080	1,160
Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant.		
(c) District Court	\$	\$
(i) brief fee	13,600	14,720
(ii) refresher fee per day	6,800	7,360
(iii) conference per hour	880	950
Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant.		
(iv) brief fee for attending sentencing hearings or procedural applications	2,710	2,930
(d) Magistrates' Court	\$	\$
(i) brief fee	8,160	8,830
(ii) refresher fee per day	4,080	4,410 *
(iii) brief fee on daily basis	5,430	5,880

* There is a discrepancy of \$5 between the approved rate (\$4,410) and the actual rate adopted in effecting the payments (\$4,415). The difference is handled under delegated authority.

Enclosure 2 to FCRI(2012-13)1

**Hire of legal services and related professional fees
Breakdown of cases briefed out at fees
not covered by the approved scales in 2008-09 and 2009-10**

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<i>Cases in 2008-09</i>		
Civil		
<p>1. Telecommunications (Competition Provisions) Appeal Board - Appeal No. 24 PCCW-HKT Telephone Ltd. v The Telecommunications Authority (TA) (MIS 1034/06)</p> <p>Fees and expenses incurred in relation to briefing a Queen's Counsel (QC) from London and local counsel and solicitors' firm on behalf of the TA in the proceedings taken out by PCCW-HKT Telephone Ltd before the Telecommunications (Competition Provisions) Appeal Board.</p>	3	5,095,939
<p>2. Telecommunications (Competition Provisions) Appeal Board - Appeal No. 25 PCCW-HKT Telephone Ltd. v The Telecommunications Authority (TA) (MIS 358/07)</p> <p>Fees and expenses incurred in relation to briefing a QC from London and local counsel and solicitors' firm on behalf of the TA in the proceedings taken out by PCCW-HKT Telephone Ltd. before the Telecommunications (Competition Provisions) Appeal Board.</p>	4	3,052,283

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
3. Fok Chun Wa (suing by his next friend Fok Siu Wing) and Zeng Lixia v Hospital Authority and Secretary for Food and Health (HCAL 94/07)	2	1,912,000
<p>Fees and expenses incurred in relation to briefing local leading and junior counsel on behalf of the Secretary for Food and Health as the 2nd Respondent in the judicial review proceedings taken out by a mentally handicapped Hong Kong permanent resident (suing by his father as his next friend) and his wife who is a Mainland resident at the material time, challenging the decision of the Hospital Authority to increase the package charges for obstetric services for non-eligible persons as gazetted on 22 January 2007.</p>		
4. Penny's Bay Investment Company Limited v Director of Lands (CACV 176/07 and CACV 177/07)	2	1,624,528
<p>Fees and expenses incurred in relation to briefing a QC from London and a local junior counsel on behalf of the Director of Lands as the Respondent in the Court of Appeal proceedings (on appeal by the Applicant against the decisions of the Lands Tribunal) involving a claim from the Applicant on a piece of land owned by it at Penny's Bay with right of marine access under the government lease.</p>		
5. Ng Siu Tung and Others v Director of Immigration (HCAL 81/99)	2	1,449,500
<p>Fees and expenses incurred in relation to briefing local leading and junior counsel on behalf of the Director of Immigration as Respondent in the judicial review proceedings involving right of abode claims and the scope and application of the Government's concession policy in respect of the Appellants.</p>		

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<p>6. Appeal to the Board of Review by a company (Board of Review B/R 63/06, MIS 955/06)</p> <p>Fees and expenses incurred in relation to briefing a QC from London and a local junior counsel on behalf of the Commissioner of Inland Revenue in the appeal to the Inland Revenue Board of Review against assessment of additional tax under section 82A of the Inland Revenue Ordinance (Cap. 112).</p>	2	1,379,251
<p>7. An application for a statutory will of a mentally incapacitated person (HCMP 2656/06)</p> <p>Fees and expenses incurred in relation to briefing local leading and junior counsel to act on behalf of the Secretary for Justice (SJ) in the capacity of the protector of charity in a statutory will application relating to a mentally incapacitated patient. Fees and expenses were also incurred in instructing a psychiatrist to give expert opinion in the proceedings.</p>	3	1,329,080
<p>8. Ma Wan Development - Proposed Gazetting (L/M (972) in ADV/499/00)</p> <p>Fees and expenses incurred in relation to briefing a solicitors' firm to prepare an agreement supplemental to the Heads of Agreement between the Lands Department on behalf of Government and the developer regarding the development of Ma Wan Park, and the associated management agreement.</p> <p>Fees were also incurred in relation to briefing a leading counsel to advise on issues relating to the gazettal of amendments to the authorized road scheme under the Roads (Works, Use and Compensation) Ordinance (Cap. 370).</p>	2	1,177,579

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
9. FG Hemisphere Associates LLC v Democratic Republic of the Congo and Others (SJ intervening) (HCMP 928/08)	3	1,014,913
<p>Fees and expenses incurred in relation to briefing local leading and junior counsel on behalf of SJ as intervener in the appeal by FG Hemisphere Associates LLC against the decision of Court of First Instance dated 12 December 2008. SJ intervened in the proceedings at first instance (and subsequently the appeal before the Court of Appeal) because of the public importance of the issue involved.</p> <p>Fees and expenses were also incurred in relation to briefing a QC from London to advise on the case.</p>		
10. Fees and expenses incurred in 531 other civil cases under \$1 million each	-	59,162,363
Sub-total: 540 cases		77,197,436

Criminal

11. HKSAR v Lu Dayong and Two Others (DCCC 127/05)	4	5,006,432
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Fees and expenses were incurred in engaging a Senior Counsel and two barristers in prosecuting this trial, which is a case of alleged corruption-facilitated cigarette smuggling.

Fees were also incurred in engaging a forensic accountant to testify at the trial.

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
12. HKSAR v Kong Wai-chun and Nine Others (DCCC 760/07)	2	3,964,000
<p>This case involved a breach of copyright by an organized criminal syndicate. Ten persons, each separately represented, were prosecuted. In view of the size of the case and its complexity, two barristers were briefed to prosecute it. After a long trial (for 118 days), on 27 July 2009 all defendants were convicted and sentenced to varying periods of imprisonment.</p>		
13. HKSAR v Gong Beiying and Six Others (DCCC 980/06)	2	3,322,500
<p>Fees and expenses were incurred in engaging two barristers to prosecute this case. It involved the prosecution of seven persons in relation to complicated fraud involving land and bank loan transaction arising from the takeover of a Hong Kong publicly listed company. The trial took 102 court days. All defendants were convicted at trial, but on appeal to the Court of Appeal and then to the Court of Final Appeal, the convictions of the second to seventh defendants were squashed.</p>		
14. HKSAR v Kanjanapas Chong-kwong, Derek and Three Others (CAAR 8/06, CACC 248/06 and CACC 140/07)	2	2,736,046
<p>Fees and expenses were incurred in engaging a QC from London and a local barrister to prosecute the above appeals. It was alleged that the defendants, which included a solicitor (D3) and a barrister (D4), made a bogus application to the Court of First Instance for a writ of habeas corpus with a view to gaining access to a participant in the ICAC Witness Protection Programme. All defendants were convicted and they subsequently appealed against their convictions and sentences. On the other hand,</p>		

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<p>the prosecution appealed by way of case stated against the acquittal of D4 on the main charge and sought to review the sentences of D1 and D3. D1, D2 and D3 lost their appeals. The Court of Appeal subsequently dismissed the prosecution's case-stated appeal but allowed the applications for the review of the sentences.</p>		
<p>15. HKSAR v Yip Kim Po and Another (HCCC 67/08)</p>	2	2,606,524
<p>The defendants face nine charges relating to two fraudulent bond issues, the fraudulent utilisation of credit facilities and the making of false annual accounts for a publicly listed company. Due to the complexity of the matter, a Senior Counsel and a barrister were briefed to prosecute the case. Both defendants were acquitted after trial.</p>		
<p>16. HKSAR v Shum Chiu and Five Others (DCCC 687/04)</p>	3	2,156,350
<p>Fees and expenses were incurred in engaging a Senior Counsel to prosecute the case. It involves six defendants being prosecuted for seven charges of conspiracy to offer an advantage to public servants and conspiracy to falsify account. Upon the defendants' application, the case was severed into three parts, with trial lasted for a total of 102 days. Although the defendants initially pleaded or were found guilty, their convictions were subsequently quashed on appeal.</p>		
<p>17. HKSAR v Ocean Technology Ltd. and Five Others (HCMA 173/08)</p>	3	1,855,708
<p>The defendants were prosecuted for offences of radio broadcasting without a licence, having applied for one and that application having been refused by the Chief Executive-in-Council. Because of the importance of the issues involved in the case, it was</p>		

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
decided to obtain an opinion from a London QC and his junior. The QC was also subsequently briefed to appear in the Court of Appeal in respect of the appeal lodged by the SJ. A local expert was also briefed to assist in the preparation of the appeal.		
Separately there was a judicial review taken out by two of the defendants challenging the magistrate's decision suspending the effect of his determination on the constitutionality of the licensing regime. A local Senior Counsel was briefed to represent the HKSAR. In its judgment, the Court upheld the decision of the magistrate.		
18. Fees and expenses incurred in 36 other criminal cases under \$1 million each	-	6,797,446
Sub-total: 43 cases		28,445,006
Hire of Consultant		
19. Fees and expenses for engaging legal consultants	1	1,598,380
Sub-total: 1 case		1,598,380
Total expenditure	(584 cases)	107,240,822

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<i>Cases in 2009-10</i>		
Civil		
<p>1. The Hong Kong Electric Company Limited v The Commissioner of Rating and Valuation (LDGA 224/04, LDRA 358/04, LDGA 166/05, LDRA 464/05, LDRA 146/06, LDGA 179/06, LDRA 99/07 and LDGA 106/07)</p> <p>Fees and expenses incurred in relation to briefing out local leading and junior counsel and engaging experts for the Commissioner of Rating and Valuation (CRV) in the four rating appeals and four Government rent appeals of the Hong Kong Electric Co. Ltd. (HEC) to the Lands Tribunal against the CRV's valuation of HEC's "Generation, Transmission & Distribution System/Tenement" for four assessment years (2004/05, 2005/06, 2006/07 and 2007/08). The Lands Tribunal directed that the rating appeal and Government rent appeal in the assessment year 2004/05 (LDRA 358/2004 and LDGA 224/2004), which involve rateable values of \$6,294 million in the Valuation List and \$2,605 million in the Government rent roll, be proceeded to trial. The Lands Tribunal handed down a judgment on 30 November 2009 allowing HEC's appeals. On 28 January 2010, the CRV lodged an appeal to the Court of Appeal (CACV 27/10).</p>	7	8,850,793
<p>2. The China Light and Power Co. Limited v The Commissioner of Rating and Valuation (LDGA 241/04, LDRA 365/04, LDRA 366/04, LDRA 367/04, LDRA 368/04 and LDRA 369/04)</p> <p>Fees and expenses incurred in relation to briefing local leading and junior counsel and engaging experts for the CRV in the five rating and one Government rent appeals by The China Light and Power Co. Limited (CLP) against CRV's valuation of CLP's "Generation, Transmission & Distribution</p>	7	8,127,179

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<p>System/Tenement” for the assessment year of 2004/05 (which were selected as test appeals). The main issue of the appeals was on the appropriate valuation method to be adopted. The trial of these six appeals before the Lands Tribunal commenced on 22 February 2010 and lasted for 27 days before it was adjourned part-heard on 1 April 2010.</p>		
<p>3. FG Hemisphere Associates LLC v Democratic Republic of the Congo and Others (Secretary for Justice intervening) (CACV 373/08 and CACV 43/09)</p>	<p>3</p>	<p>2,069,968</p>
<p>Fees and expenses incurred in relation to briefing local leading and junior counsel on behalf of Secretary for Justice (SJ) as intervener in the appeal by FG Hemisphere Associates LLC against the decision of Court of First Instance dated 12 December 2008. SJ intervened in the proceedings at first instance and the appeal before the Court of Appeal because of the public importance of the issue involved.</p> <p>Fees and expenses were also incurred in relation to briefing a Queen’s Counsel (QC) from London to advise on the merit of the appeal and appear for SJ. The QC had been involved since the inception of the proceedings before the Court of Appeal.</p>		
<p>4. An application for a statutory will of a mentally incapacitated person (HCMP 2656/06)</p>	<p>3</p>	<p>1,597,425</p>
<p>Fees and expenses incurred in relation to briefing local leading and junior counsel to act on behalf of SJ in the capacity of the protector of charity in a statutory will application relating to a mentally incapacitated patient. Fees and expenses were also incurred in instructing a psychiatrist to give expert opinion in the proceedings.</p>		

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<p>5. Chu Woan Chyi, Liao Hsiao Lan, Lu Lih Ching, Chang Jenn Yeu, Kan Hung Cheung and Hong Kong Association of Falun Dafa v Director of Immigration (CACV 119/07)</p> <p>Fees and expenses incurred in relation to briefing local leading and junior counsel on behalf of the Director of Immigration as the Respondent in the Court of Appeal proceedings (on appeal by the Applicants against the judgment of the Court of First Instance of a judicial review application lodged by the applicants).</p>	2	1,520,150
<p>6. Shui On Credit Company Limited (FACV 1/09)</p> <p>Fees and expenses incurred in relation to briefing a QC from London as well as local senior counsel and junior counsel on behalf of the Commissioner of Inland Revenue in the company's appeal to the Court of Final Appeal against profits tax assessments.</p>	3	1,512,985
<p>7. Chau Ka Chik Tso and Others v SJ (HCA 10670/00)</p> <p>Fees and expenses incurred in briefing local counsel to represent SJ at the Court of First Instance to resist the Plaintiffs' claims for paper or possessory title over some discrepant areas in Yuen Long.</p>	2	1,427,750
<p>8. Chinachem Charitable Foundation Limited v Chan Chun Chuen, SJ and Wang Din Shin (HCAP 8/07)</p> <p>Fees and expenses incurred in relation to briefing local leading and junior counsel on behalf of SJ as a Respondent in probate action involving the authenticity of two competing wills, one of which involves charitable interest.</p>	3	1,360,334

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
Fees and expenses also incurred in relation to briefing a QC from London to advise on the case. Such advices were obtained from time to time in the course of the probate action.		
9. Cheng Kar Shun and Leung Chi Kin v 12 Members of the Select Committee of the Legislative Council, President of the Legislative Council and SJ (Interested Party) (HCAL 79/09)	2	1,324,136
Fees and expenses incurred in relation to briefing a QC from London and a local junior counsel on behalf of SJ as an interested party in the judicial review proceedings taken out by the two applicants to challenge the power of the Legislative Council Select Committee to order them to attend at a public hearing before it to give evidence and to produce documents.		
10. Sun Honest Development Limited v Appeal Tribunal (Buildings) and Building Authority (Interested Party) (FACV 3/09)	4	1,274,955
Fees and expenses incurred in relation to briefing a QC from London to advise as well as local senior and junior counsel to advise and represent the Building Authority as the Interested Party in the Court of Final Appeal proceedings brought about by the applicant against an adverse ruling of the Appeal Tribunal (Buildings) in relation to a proposed redevelopment in Wang Fung Terrace.		
11. China Field Limited v Appeal Tribunal (Buildings) and Building Authority (FACV 2/09)	3	1,198,125
Fees and expenses incurred in relation to briefing local leading and junior counsel on behalf of the Building Authority as the Interested Party in the Court of Final Appeal proceedings brought about by		

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
the applicant against an adverse ruling of the Appeal Tribunal (Buildings) in relation to a proposed redevelopment in Wang Fung Terrace.		
12. Tong Wai Ting by Choi Wai Chu, his next friend v Secretary for Education and Permanent Secretary for Education (HCAL 73/09)	2	1,193,500
Fees and expenses incurred in relation to briefing local leading and junior counsel on behalf of the Secretary for Education and the Permanent Secretary for Education as the Respondents in the judicial review proceedings taken out by a student with intellectual disability (suing by his mother as his next friend).		
13. International Trader Limited v Town Planning Appeal Board and Town Planning Board (Interested Party) (CACV 407/07)	2	1,184,855
Fees and expenses incurred in relation to briefing a QC from London and a local senior counsel on behalf of the Town Planning Board as Interested Party in the appeal against the judgment of the Court of First Instance ordering the judicial review lodged by International Trader Limited (ITL) be allowed. In the judicial review, ITL challenged the Town Planning Appeal Board's decision to uphold the Town Planning Board's decision to refuse planning permission to proceed with a residential development in the Mid-Levels.		
14. Fees and expenses incurred in 593 other civil cases under \$1 million each	-	58,690,185
Sub-total: 606 cases		<hr/> 91,332,340 <hr/>

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
Criminal		
15. HKSAR v Kulemesin Yuriy & Three others (DCCC 669/08)	2	5,059,200

This case involved the prosecution of four mariners for “Endangering the safety of others at sea”.

The four defendants were the Ukrainian master of a supply boat (D1), the mainland master of a bulk carrier (D2) and two local pilots (D3 and D4). D1 was navigating the supply boat (registered in Ukraine) which collided with the mainland registered bulk carrier on 22 March 2008 in Hong Kong waters. The latter vessel was at the time navigated by the two Hong Kong pilots, in the company of the master, at the bridge. Following the collision, the supply boat sank and 18 of its crew members were drowned.

A Senior Counsel was briefed to prosecute the trial which took a total of 91 days. Moreover, a total of seven maritime experts, both local and overseas, were called by the two sides to provide expert evidence on various matters relating to the case, including inter alia the manner of navigation by both vessels and the collision avoidance rules. Fees were also incurred for same-day transcription service of the testimonies of witnesses and submissions by parties throughout the trial, with the fees shared equally between the prosecution and the defence solicitors.

All four defendants were convicted after trial and were sentenced to varying periods of imprisonment. The four defendants appealed against both convictions and sentence. The Court of Appeal allowed the appeal against convictions by D2 and D4, whilst upholding the convictions of D1 and D3 but allowing their appeal against sentence. D1 and D3 are now appealing to the Court of Final Appeal

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
against their convictions, and the hearing for the application for leave to appeal will be heard on 29 May 2012.		
16. HKSAR v Yip Kim-po & Five others (DCCC 960/07 and DCCC 552/08 (DCON11/08))	3	4,782,000
Fees and expenses were incurred in engaging a Senior Counsel and a barrister to handle the prosecution in the District Court. The case involved six defendants who faced 18 charges relating to the fraudulent use of banking facilities extended to a subsidiary of Ocean Grand Holdings Limited, a public listed company. The first and second defendants were represented by Senior Counsel. The District Court trial lasted for 80 days and all defendants were convicted. D1 to D6 lodged their appeal against conviction and sentence. Hearing date is yet to be fixed.		
17. HKSAR v Ng Chun-to, Raymond & Three others (DCCC 405 & 895/09)	2	2,485,000
A leading counsel and a junior counsel were engaged to prosecute this case which was about manipulation of the local market of derivative warrants and also offering of advantages to certain employees of the warrant issuers by D1, with his two employees (D2 and D3) as conspirators. D4, a solicitor by profession and the wife of D1, also faced a total of 17 charges of money laundering involving bank transfers and also the possession of cash found in her safety box.		
The whole trial lasted for about 33 days. D2 pleaded guilty at the early stage of the trial. D1, D3 and D4 were convicted after trial. D1 and D4 are proceeding with their appeal against conviction. On the other hand, the prosecution is seeking a review		

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
of sentence against the two of them. No hearing dates have yet been fixed for the appeals and reviews.		
18. HKSAR v H Abdul Rahman & Five others (CACC 302/08)	4	2,398,000
Fees and charges were incurred to engage a Senior Counsel and a junior barrister to handle the appeal. The case involved six defendants who were variously charged with conspiracy to defraud and false statement by company directors. The case was related to a complicated fraud involving land and bank loan transactions arising from the takeover of a Hong Kong publicly listed company. The trial lasted 102 days. All defendants were convicted at trial, but on appeal to the Court of Appeal and then to the Court of Final Appeal, all of their convictions were squashed.		
19. HKSAR v Li Tsz-lok & Fifteen others (DCON 19/09)	2	2,240,000
Fees and charges were incurred to engage two experienced counsel to handle the prosecution. This case involved 15 defendants prosecuted for ten charges related to the production and sale of pirated obscene articles. The trial lasted for 101 days. Eleven of the defendants were convicted as charged and only one lodged appeal against conviction, but the application for leave for appeal was not granted. Appeal dismissed.		
20. HKSAR v Tsang Wai-lun, Wayland & Five others (CACC 96/10)	3	2,059,407
This case involving six defendants and four conspiracy charges. It was mainly alleged that the chairman and the executive director of a publicly		

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<p>listed company and others conspired together to deceive the shareholders and the Stock Exchange to falsely represent that the company was to acquire interests in a joint venture for a gas project in Chongqing. This matter involved complex factual and expert evidence and complicated legal issues such as stay applications and a claim for public interest immunity. The trial initially fixed for 60 days turned out lasting 104 days. Fees and expenses were incurred in engaging a local barrister to prosecute this lengthy and complicated trial, and also in engaging an expert witness in China law to give evidence on the procedure involved in setting up a Sino-foreign joint venture in Chongqing. After trial, all but one of the defendants were convicted as charged. All convicted defendants filed notice of appeal against conviction and hearing was held on 5 to 9 March 2012 with judgment reserved.</p>	2	1,935,000
<p>21. HKSAR v Du Jun (CACC 334/09)</p>		
<p>Fees and expenses were incurred in engaging a Senior Counsel to prosecute the trial. This was an unprecedented and by far the most serious and the biggest insider dealing case in Hong Kong which arose from the investigation by the Securities and Futures Commission. The matter involved complicated expert evidence on insider trading and computer evidence pertaining to the electronic trail of email messages which contained the insider information sent and received by smartphones with a high level of security protection. After a 40-day trial, the defendant, a former Managing Director of a global financial services firm, was convicted of ten counts of insider dealing offences. He was sentenced to a maximum seven years' imprisonment and fined HK\$23.3 million. The defendant has filed a notice of appeal against both conviction and sentence. The appeal hearing was held from 24 to 27 April 2012 with judgment reserved.</p>		

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
22. HKSAR v Yeung Chun-pong & Three others (DCCC 438/05)	3	1,306,027
<p>Fees and expenses were incurred in engaging a forensic accountant to analyse the bank accounts and prepare an expert report which formed the main part of the prosecution case against the defendants. The defendants were prosecuted for two charges of “Conspiracy to deal with property known or believed to represent the proceeds of an indictable offence”.</p> <p>This case mainly turns on the analysis of the fund flow and fund tracing of two bank accounts held in the name of the defendants. Two defendants pleaded guilty to one of the charges. The charges against the other two defendants were left on the court file.</p>		
23. HKSAR v Shum Chiu & Five others (CACC 424/08)	3	1,223,840
<p>This appeal arose from an ICAC investigation that involved the covert recording of conversations between an informant and other defendants at which solicitors for the defendants were present. The facts of the case were complicated and a large amount of documents were involved. The appeal involved substantial and far reaching legal issues and arguments.</p> <p>The part of the original trial under appeal lasted for over 80 days. The original two trial counsel were most familiar with the facts and issues of the case. Both trial prosecutors were engaged on the appeal for economy and their familiarity with case. The defendants’ appeals were subsequently allowed.</p>		
24. Fees and expenses incurred in 42 other criminal cases under \$1 million each	-	9,777,560
Sub-total: 51 cases		<hr/> 33,266,034 <hr/>

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
Hire of Consultant		
25. Fees and expenses for engaging legal consultants	1	1,814,780
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Sub-total: 1 case		1,814,780
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Total expenditure	(658 cases)	126,413,154
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**Legal services for construction dispute resolution
Breakdown of cases briefed out at fees
not covered by the approved scales in 2008-09 and 2009-10**

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<i>Cases in 2008-09</i>		
1. Secretary for Justice v The Hong Kong and Yaumati Ferry Co. Ltd. (HYF) and Hong Kong Ferry (Holdings) Co. Ltd. - Contract No. UA 11/91, Indemnity Agreement (HCA 15329 of 1999)	8	14,998,343

Fees and expenses incurred in relation to briefing a solicitors' firm, leading and junior counsel and experts in proceedings in relation to the quantum trial on assessment of the Government's claim for the additional costs of construction of certain outstanding and omitted works at the re-provided piers at Central; and HYF's counterclaims for return of additional costs paid by HYF for works at the re-provided piers which they alleged to be defective. The quantum trial commenced on 6 November 2008 and both parties finished tendering all evidence in this case on 12 November 2008. On 15 November 2008, the Government and HYF and Hong Kong Ferry (Holdings) Co. Ltd. agreed to resolve their respective claims by payment of a sum of \$125 million to the Government.

	Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
2.	<p>Advanced Engineering Infrastructure Works for Pak Shek Kok Development - Contract No. TP 31/99 Arbitration between Downer EDI Works (Hong Kong) Limited (formerly known as Downer EDI Engineering (Hong Kong) Ltd.) and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to briefing a solicitors' firm, leading counsel and quantum and programming experts in an arbitration in respect of claims brought by the Contractor against the Government for time-related and non-time related costs.</p>	3	14,022,942
3.	<p>Water Front Park at Area 33 Tai Po - Arch SD Contract No. TP 26/93 Arbitration between Wan Chung Construction Co. Ltd. and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to briefing a solicitors' firm, counsel, programming expert and quantum expert in an arbitration in respect of claims brought by the Contractor against the Government for extension of time, prolongation costs and additional costs.</p>	4	3,411,157
4.	<p>Conversion and Extension of Existing Aided Schools Under School Improvement Programme – Phase II, Package 5, Group 2 (Programme Nos. 8014EC and 8015E) - Arch SD Contract No. 385 Arbitration between Shing Hing Construction Co. Ltd. and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator, as well as briefing outside counsel and a quantum expert, in an arbitration brought by the Contractor for prolongation costs, valuation of works done and loss of profit.</p>	3	1,590,868

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
<p>5. Slope Upgrading Works Term Contract (2003-2006) - Contract No. 2/BD/2003 Arbitration between Geotech Engineering Ltd. and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator and briefing outside counsel in an arbitration brought by the Contractor for loss and damages arising out of their performance of the Term Contract.</p>	3	1,130,240
<p>6. Fees and expenses incurred in 15 other civil cases under \$1 million each</p>	-	5,258,053
Total expenditure	(20 cases)	40,411,603

Cases in 2009-10

<p>1. Advanced Engineering Infrastructure Works for Pak Shek Kok Development - Contract No. TP 31/99 Arbitration between Downer EDI Works (Hong Kong) Limited (formerly known as Downer EDI Engineering (Hong Kong) Ltd.) and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator, as well as briefing a solicitors' firm, leading counsel, quantum and programming experts, and pumping expert, in an arbitration in respect of claims brought by the Contractor against the Government for time-related and non-time related costs.</p>	5	13,294,445
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	Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
2.	<p>Route 8 - Lai Chi Kok Viaduct - Contract No. HY/2003/01 Arbitration between Acciona Infraestructuras, S.A. (formerly known as NECSO Entrecanales Cubiertas S.A.) and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to briefing a solicitors' firm as well as leading and junior counsel in an arbitration in respect of claims brought by the Contractor against the Government for various complex issues regarding design, variations, additional work, extension of time, valuation of variations, prolongation costs, disruption costs and management of change costs.</p>	3	9,625,295
3.	<p>Water Front Park at Area 33 Tai Po - Arch SD Contract No. TP 26/93 Arbitration between Wan Chung Construction Co. Limited and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator, as well as briefing a solicitors' firm, counsel, programming expert, quantum expert and an interpreter, in relation to the arbitration in respect of claims brought by the Contractor against the Government for extension of time, prolongation costs and additional costs.</p>	6	5,458,224
4.	<p>Tin Shui Wai Further Development - Road D3 and Constructed Wetland - Contract No. YL 46/99 Arbitration between China State Construction Engineering Hong Kong Ltd and the Government of HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator, as well as briefing senior counsel, a quantity surveyor and a quantum expert, in an arbitration in respect of claims brought by the Contractor against the Government in respect of the valuation of missing items in the bills of quantities.</p>	4	2,686,553

	Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
5.	<p>Mainlaying between Sai Yung Pun and Kennedy Town - Contract No. 20/WSD/00 Arbitration between Brington Engineering Ltd and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator, as well as briefing outside counsel and quantum and programming experts, in an arbitration in respect of claims brought by the Contractor against the Government for extension of time, prolongation costs, disruption costs and finance charges.</p>	4	2,532,823
6.	<p>Structural System Design and Construction of a Primary School in Area 27 and a Primary School and a Secondary School in Area 101, Tin Shui Wai, New Territories - Contract No. SS H333 Arbitration between Hong Kong Construction (Hong Kong) Limited and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator, as well as briefing a solicitors' firm, counsel and piling expert, in an arbitration in respect of claims brought by the Contractor against the Government for prolongation costs and entitlements under alleged variations.</p>	4	2,081,808
7.	<p>Design and Construction of Tsuen Wan Drainage Tunnel - Contract No. DC/2007/12 Adjudication Notice on Excessive Grout Loss at H-Piling works at Intake I-3 (PVO No. 20)</p> <p>Fees and expenses incurred in relation to appointing an adjudicator, as well as briefing outside counsel, quantum expert and piling expert, in an adjudication in respect of a claim brought by the Contractor</p>	4	1,931,906

Brief description of case / matter	Number of counsel / legal firms / other professionals involved	Expenditure \$
against the Government for the cost of remedial works following a failure in method of construction of a retaining wall.		
8. Minor Works Term Contract to Buildings and Lands and Other Properties for which the Architectural Services Department is responsible in Contract Area 1 Hong Kong - Contract No. TC J325 Arbitration between Chun Wo Construction & Engineering Company Limited and the Government of the HKSAR	5	1,496,988
Fees and expenses incurred in relation to appointing an arbitrator, as well as briefing a counsel, a quantity surveyor, an expert on granite and marble works and a quantum expert, in an arbitration in respect of claims brought by the Contractor against the Government for the measurement and valuation of alleged variations and prolongation costs.		
9. Fees and expenses incurred in 16 other civil cases under \$1 million each	-	3,900,449
Total expenditure	(24 cases)	43,008,491
