

**立法會**  
***Legislative Council***

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LC Paper No. CB(4)1268/15-16  
(These minutes have been seen  
by the Administration)

**Panel on Administration of Justice and Legal Services**

**Minutes of policy briefing cum meeting  
held on Monday, 25 January 2016, at 4:30 pm  
in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon Martin LIAO Cheung-kong, SBS, JP (Chairman)  
Hon Dennis KWOK (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon James TO Kun-sun  
Hon TAM Yiu-chung, GBS, JP  
Hon Starry LEE Wai-king, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon WONG Yuk-man  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Elizabeth QUAT, JP  
Hon TANG Ka-piu, JP  
Dr Hon CHIANG Lai-wan, JP

**Member absent** : Hon Emily LAU Wai-hing, JP

**Members attending** : Hon WONG Kwok-hing, BBS, MH  
Hon CHAN Chi-chuen

**Public officers  
attending** : Item III

Department of Justice

Mr Rimsky YUEN, SC, JP  
Secretary for Justice

Mr Wesley WONG, SC  
Solicitor General (Atg)

Ms Christina CHEUNG  
Law Officer (Civil Law)

Ms Amelia LUK, JP  
Law Officer (International Law)

Ms Theresa JOHNSON  
Law Draftsman

Mr Keith YEUNG, SC, JP  
Director of Public Prosecutions

Mr Alan SIU, JP  
Director of Administration & Development

Home Affairs Bureau

Ms Florence HUI Hiu-fai, SBS, JP  
Under Secretary for Home Affairs

Mr Thomas Edward KWONG, JP  
Director of Legal Aid

Mr Laurie LO Chi-hong, JP  
Deputy Secretary for Home Affairs (1)

Ms Karyn CHAN Ching-yuen  
Principal Assistant Secretary for Home  
Affairs (Civic Affairs) 2

Item IV

Department of Justice

Mr Peter WONG  
Deputy Solicitor General (General)

Mr Byron LEUNG  
Assistant Solicitor General

Miss Jessie LAU  
Government Counsel

Intellectual Property Department

Miss LEE Sau-kong  
Deputy Director of Intellectual Property

Working Group on Arbitrability of Intellectual Property Rights

Mr C K KWONG  
Member

**Attendance by invitation** : Item III, IV

Hong Kong Bar Association

Ms Winnie TAM, SC  
Chairman

**Clerk in attendance** : Miss Mary SO  
Chief Council Secretary (4)2

**Staff in attendance** : Mr Stephen LAM  
Senior Assistant Legal Adviser 2

Mr Joey LO  
Senior Council Secretary (4)2

Miss Vivian YUEN  
Legislative Assistant (4)2

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**I. Information paper(s) issued since the last meeting**

Members noted that no information paper had been issued since the last meeting.

**II. Items for discussion at the next meeting**

LC Paper No. CB(4)485/15-16(01) -- List of outstanding items for discussion

LC Paper No. CB(4)492/15-16(01) -- Letter from Hon Dennis KWOK dated 7 January 2016 requesting to discuss the issue of "Common Entrance Examination proposed by The Law Society of Hong Kong" (*English version only*)

LC Paper No. CB(4)485/15-16(02) -- List of follow-up actions

2. Members agreed to discuss the following items at the next regular meeting scheduled for 22 February 2016 at 4:30 pm:

(a) Proposed Apology Legislation; and

(b) Review of criminal legal aid fees.

3. The Chairman drew members' attention to Mr Dennis KWOK's letter dated 7 January 2016 requesting to discuss the issue of "The proposal by the Law Society of Hong Kong to introduce a common entrance examination in Hong Kong" (number 18 in the list of outstanding items for discussion). Mr Dennis KWOK said that as the Law Society of Hong Kong ("the Law Society") issued a press statement on the way forward with its proposal for a Common Entrance Examination ("CEE") on 6 January 2016 without releasing the details about the operation of the proposed CEE, the Panel should follow up the issue as soon as possible, and invite the Law Society to brief members on the details of its proposal, and invite representatives from the Hong Kong Bar Association, the three law schools in Hong Kong, namely the University of Hong Kong, the Chinese University of Hong Kong and the City University of Hong Kong, and the Standing Committee on Legal Education and Training to

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give their views on the proposed CEE. Members agreed to include the item in the agenda for the regular meeting in April.

**III. Briefing on the Chief Executive's 2016 Policy Address**

LC Paper No. CB(4)485/15-16(03) -- Paper provided by the Department of Justice

LC Paper No. CB(4)485/15-16(04) -- Paper provided by the Home Affairs Bureau

Briefing by the Administration

4. At the invitation of the Chairman,
  - (a) Secretary for Justice ("SJ") briefed members on the policy initiatives of the Department of Justice ("DoJ") in 2016, details of which were set out in LC Paper No. CB(4)485/15-16(03); and
  - (b) Under Secretary for Home Affairs ("USHA") briefed members on the policy commitments in respect of legal aid and legal advice services in the Chief Executive's 2016 Policy Address and Policy Agenda, details of which were set out in LC Paper No. CB(4)485/15-16(04).

Views of the Hong Kong Bar Association ("HKBA")

5. Ms Winnie TAM presented the views of HKBA on three issues:
  - (a) HKBA thanked SJ for providing assistance to Hong Kong barristers in making use of the Mainland and Hong Kong Closer Economic Partnership Agreement ("CEPA") measure, thus enabling seven Hong Kong barristers of different seniority to be retained by Mainland law firms in Shanghai as legal consultants. She hoped that SJ would continue to provide assistance to Hong Kong barristers in coordinating with other Mainland provinces which required Hong Kong barristers as legal consultants;
  - (b) HKBA hoped to have closer cooperation with the Director of Public Prosecutions in providing more training opportunities to new barristers in private practice who were interested in prosecuting cases for DoJ; and

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- (c) HKBA was of the view that the quality of criminal legal aid barristers should not be determined solely on the basis of their seniority. Given that criticisms had been made by judges on the performance of some barristers in private practice undertaking litigation work on behalf of the Legal Aid Department ("LAD"), HKBA hoped that LAD would be more vigilant in vetting and approving the applications by barristers in private practice to undertake litigation work on behalf of LAD. HKBA hoped to discuss and work out a consensus with LAD on the criteria for vetting and approval of such applications.

The Administration's response

6. SJ noted HKBA's views, particularly in paragraph 5(a) and (b), and would follow up accordingly.
7. Director of Legal Aid advised that LAD would work with HKBA to ensure the quality of criminal legal aid barristers.
8. Director of Public Prosecutions said that the Prosecutions Division ("PD") had been playing an active role in providing training opportunities to new barristers in private practice who were interested in prosecuting cases for DoJ. PD agreed in principle that short term secondment opportunities for two to three months could be worked out for new barristers to follow prosecution cases for DoJ.

Discussion

*Third party funding for arbitration in Hong Kong*

9. Mr Dennis KWOK declared that he had been engaged to handle legal aid and arbitration cases. He enquired about the progress of the proposal for third party funding for arbitration in Hong Kong.
10. SJ advised that the Third Party Funding for Arbitration Sub-committee of the Law Reform Commission ("LRC") was conducting a public consultation exercise on third party funding for arbitration conducted in Hong Kong. The outcome of the consultation would be reported by the Sub-committee to the LRC for consideration before the relevant legislative amendments would be proposed. He aimed to complete the legislative process within the tenure of the current Government, subject to uncertainties beyond its control.

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*Development of Hong Kong as an international arbitration centre*

11. Mr Dennis KWOK enquired how the Administration would promote the use of Hong Kong's legal and dispute resolution services under the "Belt and Road" initiative, e.g. whether the Administration would strive for the designation of Hong Kong as the dispute resolution or arbitration centre for parties entering into investment contracts by the Asian Infrastructure Investment Bank ("AIIB"). He suggested that in order to develop Hong Kong as an international arbitration centre, the Administration should strive for the holding of the International Council for Commercial Arbitration Congress in Hong Kong, and provide funding support to facilitate the conduct of dispute settlement proceedings administered by the Permanent Court of Arbitration (PCA) in the Hong Kong, and provide funding support to the operation of the Hong Kong International Arbitration Centre ("HKIAC").

12. SJ advised that DoJ had been working with representatives of AIIB on measures to develop Hong Kong as an international arbitration centre. He added that the Administration had been providing support services to HKIAC and would continue to do so. He added that DoJ had been actively promoting Hong Kong's legal and dispute resolution services in the Mainland in the context of the "Belt and Road" initiative. In collaboration with the Beijing Office and the relevant Economic and Trade Offices of the Hong Kong Special Administrative Region Government in the Mainland as well as the legal dispute resolution services sectors of Hong Kong, seminars were held in 2015 in major cities in the Mainland to promote Hong Kong's legal and dispute resolution services. More seminars had been planned to be organized in 2016.

13. Dr Priscilla LEUNG declared that she was an arbitrator of the China International Economic and Trade Arbitration Commission and had been engaging in international arbitration in intellectual property disputes for many years. She opined that Hong Kong had lagged behind other jurisdictions in the development of arbitration and dispute resolution services. She urged the Administration to expedite the work in this respect. She hoped that the Administration would educate the public on the details of the "Belt and Road" initiative and strive for a more active role for Hong Kong's legal and dispute resolution services in the context of the initiative. Dr CHIANG Lai-wan also said that the Administration should seize the opportunity of the "Belt and Road" initiative to develop Hong Kong as an international arbitration centre.

14. SJ advised that as the "Belt and Road" initiative would involve over 60 countries, the Administration had to determine which countries to focus on in the promotion of the legal and dispute resolution services and what aspects of those services. In this regard, DoJ had been liaising with various stakeholders,

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including the Law Society of Hong Kong and other parties concerned. SJ envisaged that some concrete plans on Hong Kong's role under the "Belt and Road" initiative would transpire sometime after the Chinese New Year.

15. Mr WONG Yuk-man opined that the policy initiatives of DoJ in 2016 were too heavily focussed on economic development, especially the "Belt and Road" initiative, without paying enough attention to important legal matters such as "One Country, Two Systems", the co-location arrangement, rule of law, governance, elections and district administration.

16. SJ advised that law and economic development were closely intertwined. The "Belt and Road" initiative was of wide concern in the legal sector as to how local and overseas businesses could utilize the attributes of Hong Kong's legal and dispute resolution services when they pursued opportunities under the "Belt and Road" initiative. Hong Kong would lose out to its regional competitors if it did not formulate a long term plan of its role under the "Belt and Road" initiative in a timely manner.

*Conversion of the former French Mission Building*

17. Mr Dennis KWOK enquired about the progress of the conversion of the former French Mission Building ("FMB") for accommodation use by law-related organizations and related purposes.

18. SJ advised that the former FMB had been allocated to DoJ. DoJ would soon invite submission of tender for the relevant renovation works.

*LRC's proposals on class action*

19. Mr Dennis KWOK enquired when the Administration would take forward the LRC's recommendation on introducing a class action regime in Hong Kong.

20. SJ responded that the cross-sector working group ("the Working Group") chaired by the Solicitor General to study the LRC's proposals on class action had so far held over ten meetings. The Solicitor General would continue to follow up the matter with the Working Group closely.

*Further expansion of the Supplementary Legal Aid Scheme ("SLAS")*

21. Mr Dennis KWOK enquired about the progress of further expansion of SLAS.



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22. USHA advised that subsequent to the substantial expansion of the scope of SLAS in November 2012 following the previous review, the Legal Aid Services Council ("LASC") had been invited to conduct a further review on the scope of SLAS with a view to presenting a new round of recommendations to the Government. LASC had formed a Working Group on Expansion of SLAS to follow up and the review was close to the final stage. LASC would consider comments expressed by stakeholders including the two legal professional bodies before finalizing its recommendations. The Government would study LASC's recommendations on receipt and report to the Panel in due course.

*Gender recognition*

23. Mr CHAN Chi-chuen enquired about the timetable and work plan of the high level Inter-departmental Working Group on Gender Recognition ("IWG") chaired by the SJ, and details of the public consultation to be carried out by the IWG.

24. SJ said that IWG's work included both gender recognition and post-recognition issues. As regards gender recognition issues, IWG was reviewing issues such as various options for a gender recognition scheme, the qualification criteria and the application procedure. As for post-recognition issues, IWG was reviewing all the existing legislative provisions and administrative measures in Hong Kong which might be affected by legal gender recognition, so that any required legislative or procedural reform could be followed up by the Government. IWG was currently focusing on the completion of a consultation paper with a view to seeking the views of the public on recognition issues first, as the legal issues involved in post-recognition would be much more complicated. The public consultation would commence in mid-2016 and IWG would continue to consult widely in the course of its work before finalizing its recommendations to the Government. The duration of the public consultation was not decided at this juncture. The Administration aimed to consult this Panel upon publication of the consultation paper.

25. Noting that the Marriage (Amendment) Bill 2014 was not passed by the Legislative Council, and in anticipation of more judicial review cases on same-sex marriage, Mr CHAN Chi-chuen enquired whether the Administration would continue to review the Marriage Ordinance (Cap. 181) or consider the introduction of civil union/partnership to address the needs of homosexual partners.

26. Dr Priscilla LEUNG said that the mainstream view in Hong Kong was opposed to legislation regarding discrimination based on sexual orientation.

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27. SJ responded that the DoJ had kept in view the developments and judicial review cases on same-sex marriage. DoJ would take into account the findings of the public consultation on gender recognition issues, and keep in close contact with the Security Bureau with a view to initiating new proposals for legislative amendment if necessary.

*Judicial review*

28. Dr CHIANG Lai-wan enquired whether the Administration would educate the public on the proper use of judicial review. Mr TAM Yiu-chung shared a similar view and opined that the Legal Aid Department should adopt robust standards in vetting and approving applications for legal aid for the purpose of judicial review.

29. Mr LEUNG Kwok-hung was of the view that there was no misuse of judicial review in Hong Kong, as reflected by the increasing number of legal assistance applications relating to judicial reviews being rejected by the Legal Aid Department, and the increasing number of unsuccessful judicial review applications.

30. SJ responded that the Administration appreciated the concerns of members and would continue to pay close attention to the relevant development.

*Proposed apology legislation*

31. Dr CHIANG Lai-wan enquired about the progress of work in respect of the proposed apology legislation.

32. SJ said that DoJ would brief members at the next regular Panel meeting on 22 February 2016 on the submissions received and the specific issues arising from the first round public consultation. DoJ aimed to commence the second-round consultation on the specific issues and on the first draft of the proposed legislation in February 2016.

*Support for the Judiciary*

33. Mr TANG Ka-piu urged the Administration to carry out a projection of the manpower and office accommodation requirement of the Judiciary, and to continue to provide sufficient manpower and office accommodation to the Judiciary in view of the ever-increasing demand for its services. Mr TANG also relayed the views of the Judiciary that it would be ideal if the office accommodation of the Executive and the Judiciary was situated at different geographical locations. In other words, the existing arrangement that

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government offices and the Wanchai Law Courts were accommodated under the same roof at the Wanchai Tower was unsatisfactory.

34. Mr Albert HO expressed concern that the increase in the workload of judges in recent years had led to delays in hearing of cases, delivery of judgments and in processing of applications for judicial review. He expressed concern that the manpower shortage problem would have adverse impact on the quality of work of the Judiciary, and hoped that existing vacancies of judges could be filled as soon as possible.

35. SJ advised that the provision of manpower and other resources to the Judiciary was the responsibility of the Chief Secretary for Administration's Office. The Administration had always and would continue to cater for the requirement for manpower and office accommodation to the Judiciary as far as possible. In his speech delivered at the Ceremonial Opening of the Legal Year 2016, Chief Justice of the Court of Final Appeal had acknowledged the support of the Government for the needs of the Judiciary over the years. He trusted that the Chief Secretary for Administration's Office would continue to work with the Judiciary on the provision of manpower and other resources to the Judiciary. SJ added that whether the vacancies of judges could be filled depended on the availability of suitable candidates which was not entirely under the control of the Administration.

*Co-location arrangement*

36. Mr Albert HO enquired whether and how the Administration would ensure that the implementation of the co-location arrangement at the West Kowloon Terminus ("WKT") of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") would be in compliance with the Basic Law and the principle of "One Country, Two Systems".

37. Dr Priscilla LEUNG expressed support for the co-location arrangement. She said that the co-location of customs, immigration and quarantine ("CIQ") checkpoint facilities was nothing new. She added that in overseas countries, there were co-location of CIQ involving two different sovereign nations, e.g. between Canada and the United States, and between France and the United Kingdom.

38. SJ advised that the co-location arrangements involved complex legal and practical operational issues. There were views both in favour and not in favour of the co-location arrangement. The DoJ, the Transport and Housing Bureau, the Security Bureau, and the Constitutional and Mainland Affairs

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Bureau were studying the relevant issues jointly and actively, and discussing them with the relevant Mainland authorities. The goal was to strive for the implementation of the co-location arrangements at the WKT, in compliance with the Basic Law and the "One Country, Two Systems" principle.

*Abuse of the mechanism for non-refoulement claims*

39. Noting that the number of claims received by the Immigration Department in recent months from persons of foreign nationality for non-refoulement in order to resist removal to another country (i.e. non-refoulement claims) had risen substantially, Mr WONG Kwok-hing and Mr Albert HO enquired about measures to be taken by DoJ in response to the abuse of the mechanism for non-refoulement claims.

40. SJ advised that regarding the issue of possible abuse of the mechanism for torture claims, the bureau taking the lead in the review of relevant policies was the Security Bureau ("SB"). The Administration would soon launch a review of the strategy of handling such claims. DoJ had all along been providing legal advice since the handing down of relevant court judgments and setting up of the unified screening mechanism and would continue to provide such legal advice, especially on human rights issue. The society's concerns were appreciated given the rising number of claims, the ever increasing demand on resources, and reports about alleged involvement of some claimants in illegal activities. Different means would be considered to tackle the problem as soon as possible, including additional resources. However, Hong Kong had to respect applicable international covenants and would have to strike a proper balance in view of legal requirements and Hong Kong's international obligations when considering the measures to handle the matter.

*Rule of law*

41. Mr WONG Kwok-hing enquired about measures to be taken by DoJ to avoid the recurrence of incidents involving disobedience of court injunctions which happened during the Occupy Central Movement in 2014.

42. SJ advised that DoJ had been paying attention to relevant matters and the work being carried out in this regard had not yet been completed. However, with the exception of those cases which had been made public through scheduled court hearings, DoJ was not in a position to divulge further details at this stage.

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43. Mr Alan LEONG enquired about the role of DoJ to speak on behalf of the Court on controversial issues or decisions involving the rule of law, such as those made in relation to the Occupy Central Movement.

44. SJ agreed that DoJ had the responsibility to speak on behalf of the Court on controversial decisions when it was necessary for upholding public interest or the rule of law. This phenomenon was often observed in many common law jurisdictions. It was for this reason that in his speech at Ceremonial Opening of the Legal Year 2016, he had pointed out that whilst it was important to ensure that the freedom of speech as well as the freedom of assembly, of procession and of demonstration as guaranteed under the Basic Law and Bill of Rights were properly guarded, it was of equal importance that every person who sought to exercise such rights should do so peacefully and within the limit permitted by the law.

45. Mr TAM Yiu-chung enquired about the progress of prosecutions against the organizers of the Occupy Central Movement.

46. SJ advised that DoJ was still following up on the prosecutorial issues relating to the Occupy Central Movement, and had provided legal advice on related cases to the Police.

*Promotion of the Basic Law*

47. Mr TAM Yiu-chung enquired whether DoJ would continue with its effort to promote the Basic Law in the community.

48. SJ advised that the Administration attached great importance to promoting the Basic Law to the general public. The Administration would continue its efforts in this regard through various public engagement exercises, including seminars and quizzes.

**IV. Arbitrability of Intellectual Property rights**

LC Paper No. CB(4)485/15-16(05) -- Administration's paper  
entitled "Proposed  
Amendments to the  
Arbitration Ordinance  
(Cap. 609)"

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Briefing by the Administration

49. At the invitation of the Chairman, Deputy Solicitor General (General) ("DSG(G)") briefed members on the Administration's proposal to amend the Arbitration Ordinance (Cap. 609), details of which were set out in the paper provided by the Department of Justice ("DoJ") (LC Paper No. CB(4)485/15-16(05)). Specifically, the legislative proposals sought to make it clear that:

- (a) disputes over intellectual property rights ("IPRs") would be capable of resolution by arbitration; and
- (b) it would not be contrary to public policy to enforce an arbitral award solely because the award was in respect of a dispute or matter concerning IPRs.

Views of the Hong Kong Bar Association

50. Ms Winnie TAM said that there had all along been arbitration on disputes arising from agreement of IPRs in Hong Kong, but there were not many arbitration cases involving the validity of registered IPRs granted by state agencies or government authorities. One of the main purposes of the Administration's proposed amendments was to make it clear that disputes over IPRs, including infringement claims, would be capable of resolution by arbitration in Hong Kong. The Hong Kong Bar Association ("the Bar Association") had provided DoJ with its suggestion of adding to the proposed amendment an inclusive but non-exhaustive list of examples of IPRs for the purpose of the Arbitration Ordinance, so as to define clearly the subject matters under IPRs and provide greater assurance to the transactional lawyers, intellectual property ("IP") practitioners, litigation lawyers and other related parties that these subject matters under IPRs would be capable of resolution by arbitration. This list would also be conducive to publicizing arbitration in Hong Kong as a viable alternative option to litigation for IP dispute resolution. DSG(G) advised that the proposals made by the Bar Association would be forwarded to the Working Group on Arbitrability of Intellectual Property Rights for consideration.

Declaration of interest

51. The Chairman declared that he was a practising barrister, an arbitrator and a mediator. Dr Priscilla LEUNG declared that she was an arbitrator of the China International Economic and Trade Arbitration Commission.

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(At 6:19 pm, the Chairman extended the meeting by 15 minutes to allow sufficient time for discussion.)

Discussion

52. Dr Priscilla LEUNG said that from her experience of handling arbitration cases involving disputes over IPRs in Mainland China, she had not encountered the question of arbitrability of disputes over IPRs. Responding to Dr LEUNG's enquiry on whether Hong Kong's current arbitration legislation had lagged far behind those in other similar jurisdictions, DSG(G) said that the arbitration legislation had been updated in 2013 and 2015 to keep pace with the arbitration development in Hong Kong. As there was no specific legislative provision addressing the arbitrability of disputes involving IPRs in Hong Kong, the proposed amendments would put beyond doubt that those disputes, in particular disputes relating to the validity of registered IPRs, would be capable of resolution by arbitration in Hong Kong. Deputy Director of Intellectual Property said that as different approaches had been adopted by different jurisdictions as to the arbitrability of IP disputes, there was no uniform international practice in dealing with that issue. Thus, one could not say that Hong Kong's current arbitration legislation was lagging behind those in other jurisdictions in that respect. However, she supplemented that the proposed amendments to the Arbitration Ordinance would help Hong Kong develop itself as an international centre for alternative dispute resolution involving IP matters as well as an IP trading hub in the region.

53. Ms Winnie TAM pointed out that many jurisdictions had statutory provisions which expressly allowed the arbitration of disputes relating to the validity or infringement of registered IPRs and limited the binding effects of the arbitral awards to the parties to the arbitration. On the other hand, the law in a few jurisdictions prohibited arbitration of validity of IPRs. According to her understanding, the issue of patent validity could not be submitted to arbitration in Mainland China.

54. The Chairman enquired about the measures to be taken by the Administration to facilitate cost and time savings in arbitration of IP disputes. He also asked whether it was necessary to have consent of both parties before going to arbitration where the parties did not have any arbitration agreement before the dispute arose, for example, in infringement claims.

55. In response to the Chairman's enquiry regarding the arbitration of IP disputes with no pre-dispute arbitration agreements, such as infringement claims, DSG(G) advised that in order to protect party autonomy, the parties

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involved in such disputes must consent to arbitration if the disputes were to be resolved by arbitration.

56. Mr C K KWONG, member of the Working Group on Arbitrability of Intellectual Property Rights, said that in a case where Hong Kong had been chosen as the seat of arbitration, the proposed amendments would facilitate the application of Hong Kong law to govern the arbitration clauses and procedures. The proposed amendments would also be helpful in putting beyond doubt that the enforcement of an arbitral award involving disputes over IPRs in Hong Kong would not be challenged solely on the grounds of the arbitrability of IP disputes or the conflict of public policy in this regard under the Arbitration Ordinance.

57. Mr LEUNG Kwok-hung asked whether a third party from another jurisdiction could challenge an arbitral award made in Hong Kong involving disputes over IPRs granted by that jurisdiction. DSG(G) pointed out that an arbitral award in respect of a dispute or matter relating to an IPR only bound the actual parties who participated in the arbitral proceedings and not a third party.

58. As regards the arbitration on disputes arising from international licensing agreements which involved IPRs granted by a number of state agencies or government authorities, Mr C K KWONG explained that while the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (commonly called the “New York Convention”), which applied to Hong Kong, provided for mutual recognition and enforcement of the awards made in arbitration proceedings conducted in the contracting states, the enforceability of a Hong Kong arbitral award in a contracting state would be determined by the law of that contracting state.

**V. Any other business**

59. There being no other business, the meeting ended at 6:43 pm.