

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

**Translation of Judgments**

**Purpose**

1. The purpose of this note is to set out the policy of the Judiciary on the translation of judgments.

**Legal Status of Judgments**

2. The fundamental principle is that the authentic and the only authentic version of a judgment is the one in the language in which the judgment is delivered, be it English or Chinese. The translated version of a judgment has no legal status as a judgment.

3. For example, where a judgment of the House of Lords or the Privy Council (which would invariably be written in English) is translated into Chinese, the authentic version remains the judgment as delivered in English. The Chinese translation is only a translation and has no legal status as a judgment. Judgments in English in the Hong Kong courts and their Chinese translations are in the same position.

4. Indeed, when a judgment is translated from English into Chinese or from Chinese into English, it has been the established practice of the Judiciary to state clearly on the translated version that it is only the “Chinese translation” or “English translation” of the judgment.

**Need for Translation of Judgments**

**(A) Translation of English Judgments into Chinese**

5. With the increasing use of Chinese in the Judiciary, in particular in the lower courts, there is a corresponding increase in the use of Chinese in delivering judgments by judges<sup>1</sup>. In delivering judgments in Chinese, the judge may often need to refer to excerpts of judgments of higher courts or from other common law jurisdictions. These judgments are mostly, if not solely, written in English. Thus, translating into Chinese excerpts of leading judgments written in English would greatly facilitate the judge in preparing his/her own judgment in Chinese.

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1. The term “judges” is used to include judicial officers.

6. Also, with the increasing use of Chinese by lawyers in courts, the availability of translation of excerpts of leading judgments written in English into Chinese will also facilitate the work of the legal profession, for example, when presenting submissions in court in Chinese, oral or written, or when writing opinions in Chinese for clients.

7. Certain judgments are of great public and media interest. These judgments should also be made available in Chinese. If such judgments are written in English, the provision of a Chinese translation of such judgments may assist the public in understanding them.

#### **(B) Translation of Chinese Judgments into English**

8. With the increasing use of Chinese in courts, including the higher courts, there may be occasions where judgments of jurisprudential value are written in Chinese. Translating such Chinese judgments into English would enable judges and lawyers in and outside Hong Kong who do not know Chinese to understand such judgments through an English translation.

#### **Policy and Approach on Translation of Judgments**

9. It has never been the policy of the Judiciary that all English judgments should be translated into Chinese, or vice versa. This is unnecessary, unrealistic and not cost-effective.

10. The Judiciary has all along been adopting a pragmatic approach in dealing with the translation of judgments. It is considered that translation of judgments should be carried out to meet the needs of the judges, the legal profession, the litigants and the public at large. Having regard to the different needs as identified at paragraphs 5 to 8, the Judiciary has adopted the following policies regarding the translation of judgments:

- (a) Regarding the translation of English judgments into Chinese in order to facilitate the work of judges (see para. 5) and the legal profession (see para. 6): (i) For some judgments which are of great importance, the whole judgment will be translated (for example, many of the judgments of the Court of Final Appeal). (ii) In addition, many judgments are of interest. But in the majority of cases, it is not necessary to translate the judgments in full. Translation of excerpts from

such judgments should suffice. It is considered that it would be useful to have a casebook containing such Chinese translations (see paras. 11 and 12 below).

- (b) Regarding the translation of English judgments of wide public and media interest into Chinese (see para. 7), this has been done since 1996 and would continue to be done. In such cases, the whole judgment will be translated.
- (c) Regarding the translation of Chinese judgments of jurisprudential value into English for publication and reporting (see para. 8), this has been done since 1999 and would continue to be done. In such cases, the whole judgment will be translated.

### **The Case Book**

11. The Case Book will contain the Chinese translation of excerpts from commonly cited judgments in English of courts in Hong Kong and courts in other common law jurisdictions. The main objective is to assist judges and the legal profession in their work. The Judiciary will suggest the excerpts for inclusion. A legal publisher (i.e. a publisher experienced in legal publications) will be responsible for translation and publication. It is intended that three Case Books will be published on Criminal Law, Land Law and Employment Law respectively. These are the fields where the use of Chinese in the courts and tribunals is most extensive. The Criminal Law Case Book is expected to be published in July 2003. In relation to each case, the following will be included, wherever applicable:

- (a) Catchwords;
- (b) Brief facts of the case;
- (c) The main decision in the case and the reasons for such decision;
- (d) Relevant excerpts in the case; and
- (e) Case history indicating if the case has been cited in another case reported in Hong Kong Law Reports & Digest.

12. The publisher will own the copyright of the Case Books, and the Judiciary has no involvement in the translation and publication work. It will be made clear in the Case Books that inclusion of the cases and the excerpts does not give those cases or the excerpts any legal status or authority which they do not otherwise have.

### **In-house Translation and Outsourcing**

13. Where the whole judgment is translated (see paras. 10(a)(i), 10(b) and 10(c)) in-house translators of the Court Language Section of the Judiciary are responsible for undertaking this work. We have no immediate plan to change this arrangement.

14. As regards the production of the Case Books, we consider that there are great benefits for outsourcing such work to a legal publisher, instead of our in-house translators doing the work. The main reasons are as follows:

- (a) There may be a market for such case books;
- (b) The publishers have engaged a legally qualified person with relevant expertise for the project. The translation work involved will contribute to the developing field of translation into Chinese of legal literature in English; and
- (c) There will be a saving of resources for the Judiciary.