

For discussion  
On 28 January 2008

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

### **Information Paper on Reform of the law of arbitration in Hong Kong**

#### **Introduction**

On 27 June 2005, the Department of Justice sought the views of Members of the Panel on the proposal for the reform of the law of arbitration in Hong Kong. On 28 May 2007, the Panel was informed that the Department of Justice would publish a consultation paper on the subject by the end of 2007. The object of this paper is to report to the Panel of the further progress of the proposed reform.

#### **Publication of the Consultation Paper on Reform of the Law of Arbitration in Hong Kong and Draft Arbitration Bill**

2. On 31 December 2007, the Department of Justice published a Consultation Paper on Reform of the Law of Arbitration in Hong Kong and Draft Arbitration Bill (“Consultation Paper”) to seek views on reform of the law of arbitration in Hong Kong. The Consultation Paper was prepared by the Department of Justice with the assistance of a working group which was chaired by the Solicitor General and which consisted of representatives from the legal profession, arbitration experts and government officials (“Working Group”).

3. The Consultation Paper proposes the creation of a unitary regime for all types of arbitration on the basis of the UNCITRAL Model Law on International Commercial Arbitration (“Model Law”) adopted by the United Nations Commission on International Trade Law (“UNCITRAL”), thereby abolishing the distinction between domestic and international arbitrations under the existing Arbitration Ordinance (Cap. 341) (“current Ordinance”).

4. Copies of the Consultation Paper have been sent to the Legislative Council Secretariat on 10 January 2008 for consideration by Members of the Panel. An Executive Summary is included in the Consultation Paper. A Chinese version of the Executive Summary has been separately enclosed. A consultation draft of the Arbitration Bill

("draft Bill") is at Annex A of the Consultation Paper. The Chinese version of the Consultation Paper will be available later.

### **The purpose of the reform**

5. The purpose of the proposed reform is to make the law of arbitration more user-friendly to arbitration users both in and outside Hong Kong. It will enable the Hong Kong business community and arbitration practitioners to operate an arbitration regime which accords with widely accepted international arbitration practices and development. The reform may attract more business parties to choose Hong Kong as the place to conduct arbitral proceedings. It will also help the promotion of Hong Kong as a regional centre for dispute resolution.

### **The draft Bill**

6. The draft Bill adopts the structure of the Model Law as its framework. The provisions of the Model Law, including those articles recently introduced or revised by the UNCITRAL in 2006, have been incorporated into the draft Bill where applicable and subject to necessary modifications. They are supplemented by other provisions having regard to the proposals made in the *Report of Committee on Hong Kong Arbitration Law* published in 2003 by the Committee on Hong Kong Arbitration Law and the proposals made by the Working Group and its Sub-committee. Relevant existing provisions of the current Ordinance have also been retained under the draft Bill pursuant to those proposals.

### **The consultation**

7. There is a consultation period of four months. The consultation will end on 30 April 2008, subject to further extension if required.

8. A press release was issued by the Department of Justice on 31 December 2007 relating to the publication of the Consultation Paper. Access to the Consultation Paper and the Chinese version of the Executive Summary ("consultation documents") may be made at the websites of the Department of Justice and the government of the Hong Kong Special Administrative Region. Hard copies of the consultation documents are also available for distribution at the Department of Justice. Copies of the consultation documents have been sent to academics, representatives of the legal profession, arbitration institutes, relevant government bureaux and departments, various public authorities and

private organizations concerned to seek their views on the proposals for reform.

9. Upon expiry of the consultation period, the Department of Justice and the Working Group will consider the representations and submissions from the respondents. The draft Bill is likely to be subject to further revisions in the light of the comments received.

### **The way forward**

10. Barring any unforeseen circumstances, we intend to introduce the draft Bill into the Legislative Council during the 2008-2009 legislative session.

Department of Justice  
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