

**For discussion
on 23 May 2011**

LegCo Panel on Administration of Justice and Legal Services

**Further information on the Framework Agreement on Hong Kong/
Guangdong Co-operation relating to co-operation on legal matters**

Introduction

In May 2010, the Department of Justice (“DoJ”) submitted a paper to this Panel providing the details of the Framework Agreement on Hong Kong/Guangdong Co-operation (“Framework Agreement”) relating to co-operation on legal matters (LC Paper No. CB(2)1580/09-10(01)). This paper provides Members with an update on the implementation of measures concerning cooperation on legal matters.

Co-operation on legal matters under the Framework Agreement

2. Under the Framework Agreement, government organs of both sides agreed to adopt certain measures to attain greater cooperation on legal matters, the details of which are set out in paragraphs 3 and 4 of LC Paper No. CB(2)1580/09-10(01). A summary on the progress of the matter is set out below.

I. Establishment of a communication mechanism on legal matters

3. It has been stated in paragraph 6 of LC Paper No. CB(2)1580/09-10(01) that there have been ongoing exchanges between the DoJ and legal and legislative authorities in Guangdong. Since the signing of the Framework Agreement, representatives of the DoJ have met with officials of Guangdong to discuss matters of cooperation and the implementation of the relevant measures. Both sides agreed to build on the existing channels to further exchange legal information including legislation.

4. On the matter of legislative proposals concerning joint cooperation projects, both sides reviewed the situation but considered that so far no particular cooperation proposal required either side to enact legislation pertaining to the implementation of the same.

5. It is however noted that draft legislation on the development of Qianhai is under consideration by the Shenzhen Municipal People's Congress of which the Hong Kong side has been kept informed. Further details of the Qianhai development plan will be discussed in paragraphs 17 and 18 of this paper.

II. Establishing a co-ordination mechanism for legal matters

6. Under the Framework Agreement, it is suggested that a co-ordination mechanism on legal matters may be established according to the needs. DoJ representatives have discussed with Guangdong officials on the need to establish a standing mechanism. Both sides considered that it might be more expedient to form expert groups to study and follow-up issues arising from the implementation of cooperative proposals should such a need arise. The two sides will continue to monitor the matter and exchange information on the subject.

III. Promoting exchanges and co-operation between legal sectors of Guangdong and Hong Kong

Exchanges between governmental organs

7. The DoJ has built on the existing channels in developing exchanges with legal officials of Guangdong by way of mutual visits and meetings. In November 2010, the Secretary for Justice visited various government organs in Guangdong and Shenzhen to strengthen ties and working relationship with the latter. At the meetings, the parties exchanged views on the implementation of the Framework Agreement and also explored alternatives to ensure the objectives are met.

8. Visits and meetings aside, the DoJ would also provide opportunities for officials from Guangdong, among others, to undertake common law study programme for better understanding of the legal system in Hong Kong. For the academic year 2010-2011, four officials from various judicial and legal organs in Guangdong and one official from Shenzhen took part in the one-year Common Law Training Scheme organized by the Department.

9. Short term attachment programme has also been organized by the DoJ for officials of certain justice bureaux with which the Department has established long term cooperation relationship, including the Shenzhen Justice Bureau. A general introduction of the legal system in Hong Kong is given to officials who take part in the two-week attachment. The administration of such training and exchange programmes facilitate Mainland officials to better understand the legal system and development of Hong Kong. This should be conducive to both sides in their future discussion of cross boundary legal cooperation matters.

Exchanges between legal professionals of both sides

10. Other than developing exchanges with government organs, DoJ also supports the development of closer cooperation between the legal professions of Hong Kong and Guangdong. It is understood that the Law Society of Hong Kong has launched a series of road shows in various cities of the Pearl River Delta Region (PRD Region) including Zhongshan, Foshan, Dongguan, Jiangmen and Huizhou in collaboration with the Hong Kong Trade Development Council. The road shows focused on legal issues concerning cross border transactions and international trade. The Law Society has also conducted seminars for their counterparts in Guangdong on matters of mutual interests.

11. The Hong Kong Bar Association also maintains frequent contacts with the legal profession in Guangdong. In June 2010, the Bar has conducted a seminar on mediation in Foshan and it intends to continue its work on this front.

IV. Promoting exchanges and co-operation among professionals in notary work

12. The Framework Agreement also provides for furthering exchanges on notarial work. The Association of China-Appointed Attesting Officers Limited which develops and promotes closer working relationship with Mainland notaries has initiated work in Guangdong. In June 2010, the Association visited the Justice Department of Guangdong and the local notaries to better understand the work of their counterparts in Guangdong. The Association has also given talks to visiting Guangdong notaries with a view to identifying ways to improve the standard of the notarial services on cross-boundary matters and the transmission of notarial documents between the two sides.

Hong Kong Legal Services in Guangdong

I. CEPA

13. Although the Framework Agreement is silent on the promotion of legal services, with enhanced cooperation between the legal professionals of the two places both in the public and private sectors, as well as among the notaries of both sides, it is believed that the provisions and contributions of Hong Kong legal services should be more widely recognized in Guangdong.

14. The development of Hong Kong legal services in the Mainland has benefitted from the liberalization measures provided under the Closer Economic Partnership Arrangement between Hong Kong and the Mainland (CEPA) and its Supplements. To ensure the effective implementation of the liberalization measures in Guangdong, the Administration and relevant Guangdong officials hold regular meetings to review and discuss any issues encountered during the implementation of such measures. To monitor the implementation of measures concerning legal services, the DoJ consults the legal professional bodies from time to time for their views and reflect their views/problems to the Guangdong side at such meetings to seek early resolution of the issues.

15. Other than Beijing and Shanghai, Guangdong has the highest number of representative offices set up by Hong Kong law firms.

By January 2011, there are 16 such representative offices in Guangdong and three in Shenzhen. One such representative office has formed association with a Guangdong law firm. During Secretary for Justice's visit to Guangzhou in November 2010, he met with the representatives from these offices in order to be acquainted with their operation as well as to identify any problems concerning the implementation of CEPA liberalization measures. The attending representatives expressed the desire that liberalization measures under CEPA should be further expanded so to allow them to provide a wider range of legal services, e.g. employment of Mainland practising lawyers.

16. In February 2011, the DoJ again sought the views of the Law Society on the implementation of CEPA liberalization measures on legal services. While the Law Society considered that certain liberalization measures such as association of Hong Kong and Mainland law firms might require refinement to meet the developing needs for cross-boundary legal services, no particular implementation issues have been raised.

II. Qianhai Development Plan

17. Qianhai is one of the major co-operation areas under the Framework Agreement. In August 2010, the State Council gave in-principle approval to the Overall Development Plan on Hong Kong / Shenzhen Co-operation on Modern Service Industries in Qianhai Area (Qianhai Development Plan). The Qianhai Development Plan designates Qianhai as a Hong Kong / Guangdong modern service industry innovation and co-operation exemplary zone with a view to playing a pilot role in promoting co-operation in service industries between Hong Kong and the Mainland.

18. This has presented new development opportunities for service industries in Hong Kong to further develop their businesses in the Mainland. Legal professionals in Hong Kong have expressed an interest in the matter. The arbitration bodies in Hong Kong are pleased to note the Shenzhen side has indicated their intention to encourage Hong Kong arbitral institutions to provide services to enterprises set up in Qianhai. DoJ has held discussions with the legal and arbitration professional bodies to collect their views on

this new development opportunity. The views and feedbacks of the Hong Kong professionals have also been referred to and discussed with the Shenzhen authorities. There are on-going discussions with the legal and arbitration bodies in Hong Kong and with the Shenzhen authorities on the development of Qianhai.

Conclusion

19. It is the Administration's on-going initiatives to continue strengthening regional co-operation through co-operation mechanisms with the Guangdong Province. The Framework Agreement provides a new platform for the two sides to implement this objective. The DoJ will pursue this objective in order to foster closer working relationship with the relevant Guangdong authorities. The Department will also join effort with local professionals to further promote Hong Kong legal and arbitration services in the Mainland and particularly in the PRD Region.

20. On the development of Qianhai, the DoJ will continue to work closely with the professional bodies in order to ride on this new development opportunity. To this end, the DoJ will assist the legal and arbitration professional bodies in formulating new liberalization proposals, particularly those for pilot implementation in Qianhai and/or Guangdong with a view to enhancing the development of legal and arbitration services of both sides.

Department of Justice
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