

Panel on Administration of Justice and Legal Services
List of outstanding items for discussion
(position as at 25 April 2019)

**Proposed
timing for
discussion**

1. The United Nations Convention on Contracts for the International Sale of Goods ("CISG") and its application to the Hong Kong Special Administration Region ("HKSAR")

Proposed by the Department of Justice ("DoJ"). CISG was not applied to Hong Kong prior to 1 July 1997, as the United Kingdom was not a Contracting State and had not ratified the Convention. During and after the transition, China has not deposited notification with the Secretary General of the United Nations for applying CISG to HKSAR.

May 2019

Recently, there are views in favour of its application to Hong Kong as that would harmonize the standards and rules of the international trade law, help the business sector (particularly in countries along the Belt and Road) to understand the applicable law, and enhance Hong Kong's status as an international trade and financial centre.

DoJ will conduct a public consultation on the application of CISG to Hong Kong.

2. The Law Reform Commission of Hong Kong ("LRC") – Consultation Paper on Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult

Proposed by DoJ. The LRC Sub-committee on Causing or Allowing the Death of a Child or Vulnerable Adult will brief the Panel on a consultation paper to be published by the Sub-committee in May 2019.

May 2019

**Proposed
timing for
discussion**

3. Pressure on courts arising from non-refoulement claim cases

Hon CHEUNG Kwok-kwan, Dr Hon Elizabeth QUAT and Dr Hon CHIANG Lai-wan proposed to discuss pressure on courts arising from non-refoulement claim cases (LC Paper No. CB(4)451/18-19(01)).

June 2019

At the Panel meeting on 28 January 2019, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

4. Implementation of the recommendations made by LRC

Proposed by DoJ. LRC will provide its seventh annual report to the Panel on the Administration's progress in implementing the recommendations of LRC. This seventh report is made pursuant to the reporting mechanism introduced by the Panel in 2012 to follow up on progress of implementation of the LRC's recommendations by the relevant bureaux and departments.

June 2019

5. Legal education and training in Hong Kong

Proposed by Dr Hon Priscilla LEUNG and Hon Dennis KWOK at the work plan meeting on 30 October 2018. Dr Hon Priscilla LEUNG considered that law schools should be invited to give views on the subject.

June 2019

6. Further expansion of Hong Kong's international legal and dispute resolution services market and branding Hong Kong's dual role as deal maker and dispute resolver

Proposed by DoJ. As part of its continuous efforts to promote Hong Kong's position as a leading centre for international legal and dispute resolution services in the Asia-Pacific region,

Q2/Q3 2019

**Proposed
timing for
discussion**

DoJ has been actively branding Hong Kong's dual role as deal maker and dispute resolver and would brief the Panel on the progress and relevant plans.

7. Implementation of LRC Report on Enduring Powers of Attorney: Personal Care – Continuing Powers of Attorney Bill

On 22 January 2018, DoJ briefed the Panel on the launch of a consultation on the Continuing Powers of Attorney Bill which commenced on 28 December 2017. The Bill seeks to implement the LRC Report on Enduring Powers of Attorney: Personal Care. The consultation period ended on 28 April 2018. The Administration is now considering the responses received and will take them into account in refining the Bill. DoJ will brief the Panel on the result of the consultation as well as the proposed way forward on a date to be advised.

To be advised
by DoJ

8. LRC Report on Class Actions

Hon Holden CHOW proposed to discuss the work progress of introducing a class action regime in Hong Kong (LC Paper No. CB(4)255/17-18(01)).

To be advised
by DoJ

At the Panel meeting on 27 November 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

9. Abolition of the common law offence of champerty

At the Panel meeting on 25 March 2014, members were briefed by DoJ on the recent developments of the common law offences of maintenance and champerty in Hong Kong and the Administration's position in relation to the item. Members were generally of the views that the common law offences of maintenance and champerty were outdated and should be

To be advised
by DoJ

reviewed to better suit the present day circumstances. DoJ was urged to adopt a liberal approach in addressing the issue and come up with ways to enhance access to justice for the middle-income group.

On 1 September 2014, a member requested the Panel to discuss the issue of abolition of the common law offence of champerty again.

In June 2017, the *Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017* was enacted to clarify that third-party funding for arbitration and mediation is not prohibited by the common law doctrines of maintenance and champerty, and to provide for related measures and safeguards. Following the issuance of the Code of Practice for Third Party Funding of Arbitration by the Secretary for Justice in her capacity as the statutory authorized body on 7 December 2018, those provisions of the Ordinance which govern third party funding of arbitration have come into effect on 1 February 2019. The remaining provisions on third party funding of mediation will commence on a future date to be decided following further consultation with the relevant stakeholders.

In view of the complexity of the issues involved in the proposed abolition of the common law offences of champerty and maintenance in Hong Kong, including those regarding the practice of recovery agents and litigation funding companies, and given the fundamental difference between litigation and consensual dispute resolution (arbitration and mediation), DoJ considers that a cautious approach should be adopted in respect of third party funding for litigation, which should only be considered after experience is gained from the operation of the *Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017*.

**Proposed
timing for
discussion**

10. Recovery of costs in pro bono cases

Hon Dennis KWOK proposed to discuss the issue of "Recovery of costs in pro bono cases".

To be advised
by DoJ

At the Panel meeting on 24 November 2014, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

11. Implementation of Land Titles Ordinance (Cap. 585)

During the discussion of the item on "LRC Report on Adverse Possession" at the Panel meeting on 22 December 2014, Hon Dennis KWOK proposed that the Administration should be invited to brief members on the implementation progress of the Land Titles Ordinance (Cap. 585) ("LTO") enacted in 2004.

To be advised
by DEVB

The Development Bureau ("DEVB") advised the Secretariat on 17 November 2015 that it plans to report the progress of the post-enactment review of the LTO to this Panel and the Panel on Development when the full package of necessary legislative proposed amendments to LTO is available.

DEVB is still engaging with major stakeholders on various proposed changes to the rectification, indemnity and conversion arrangements under the LTO for bringing existing land under the new title registration system as well as the proposal of implementing title registration on new land first ("new land first" proposal). With a view to enabling early implementation of the title registration system in Hong Kong, DEVB is actively forging consensus amongst the major stakeholders on the "new land first" proposal. The full package of necessary legislative amendments would only be available subject to a broad consensus being reached with the major stakeholders and in consultation with the LTO Steering Committee and the LTO Review Committee.

**Proposed
timing for
discussion**

In view of the complexity of the issues involved and that consensus amongst stakeholders is yet to be reached, it would be difficult for DEVB to commit to a definite timeframe for report to members on the package of necessary legislative amendments at this stage; but DEVB and the Panel Clerk will keep in touch with each other should there be any update to such timeframe.

12. Financial Eligibility Limits for legal aid

The Hong Kong Bar Association Standing Committee on Legal Aid Reform submitted a submission relating to the Financial Eligibility Limits for legal aid (LC Paper No. CB(4)41/17-18(01)). At the request of the Panel, the Administration has provided its response to the submission and the response was circulated to members on 30 October 2017 (LC Paper No. CB(4)130/17-18(01)).

To be advised
by the Chief
Secretary for
Administration's
Office

At the Panel meeting on 30 October 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

13. Work of the Coroner's Court

Hon HUI Chi-fung proposed to discuss the work of the Coroner's Court (LC Paper No. CB(4)952/17-18(02)). He was concerned that there was a big difference between the number of death inquests held and the number of further death investigation reports ordered, and that the average waiting time of cases from the date of listing to hearing was too long.

To be advised
by the Judiciary

At the Panel meeting on 30 April 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

At the work plan meeting on 30 October 2018, the Judiciary Administration advised that it would provide an information paper on this subject for members' reference.

14. Introducing codes of conduct for counsel and solicitors providing services to incorporated owners of buildings

Members noted that several submissions were received from property owners urging that the Hong Kong Bar Association and the Law Society of Hong Kong should introduce codes of conduct for counsel and solicitors providing services to incorporated owners of buildings.

To be confirmed

At the Panel meeting on 28 May 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

15. Outcome of consultation on gender recognition by the Inter-departmental Working Group on Gender Recognition

The Inter-departmental Working Group on Gender Recognition ("IWG") reported to the Panel the progress of IWG's work on 18 July 2017. The Panel held a public hearing on 20 November 2017 to listen to stakeholders' views on the Consultation Paper on Gender Recognition issued by IWG in June 2017. At the Panel meeting on 11 October 2018, Hon CHAN Chi-chuen proposed to discuss the outcome of consultation on gender recognition by IWG.

To be advised by DoJ

According to DoJ in April 2019, a meticulous count has revealed that, during the consultation period, IWG in fact received about 18 800 responses to the consultation paper from a wide range of perspectives. IWG is in the process of collating and analyzing the responses received. IWG will brief the Panel on the results of the consultation as well as the proposed way forward on a date to be advised.

**Proposed
timing for
discussion**

16. Length of remands

The Hong Kong Bar Association submitted a submission urging the Panel to examine whether a system could be devised to maintain records relating to the length of remands (LC Paper No. CB(4)1592/17-18(01)).

To be confirmed

At the Panel meeting on 29 October 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

17. Impact of globalization on arbitration in Hong Kong

Proposed by Dr Hon Priscilla LEUNG at the work plan meeting on 30 October 2018. Hon Dennis KWOK considered that the Hong Kong International Arbitration Centre should be invited to give views on the subject.

To be advised
by DoJ

18. Arrangement between Hong Kong and the Mainland for reciprocal recognition and enforcement of judgments in civil and commercial matters

Proposed by Hon Dennis KWOK at the Panel meeting on 28 January 2019. He suggested the Panel discussed the issues relating to the information paper on Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region provided by DoJ (LC Paper No. CB(4)433/18-19(01)).

To be advised
by DoJ

At the above Panel meeting, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.