

Economic Review Sub-Committee on Service Industries

Report of the Working Group (Legal Services)

A Digest of Reforms and Recommendations

1. Introduction

1. The Working Group (Legal Services) (“LWG”) was established on 27 November 2001 with the following terms of reference:

“To review the legal services sector, including legal infrastructure, education and training, and to make recommendations to position the legal services sector for greater contribution to Singapore’s future economic growth.”

2. On 29 May 2002, the LWG submitted its Report to the Chairman of the Economic Review Sub-Committee on Service Industries.
3. In its Report, the LWG considered ways in which the legal profession can help Singapore become a services hub for the region. The Report recognises that the legal profession has to equip itself to develop cutting-edge practices that keep pace with the services economy. Measures must also be put in place to make Singapore an attractive place for foreign lawyers and in-house counsel to re-locate to Singapore (including fiscal incentives). This will increase the volume and quality of legal work flowing in and out of Singapore.

4. Singapore should also aim towards becoming an important dispute resolution centre for the region, and the Report has made detailed recommendations towards this realisation.
5. In preparing its recommendations, the LWG also sought public feedback as early as November 2001. Written proposals and suggestions were sought from interested members of the public, as well as statutory boards, firms and corporations, including foreign law firms.

2. Deliberations and Recommendations

6. The LWG has made detailed recommendations in the following areas:
 - I. Changes that are needed in Legal Education.
 - II. Developing Singapore into a Regional Hub for Legal Training and Research.
 - III. Changes to National University of Singapore (“NUS”) Law Faculty Admission and Related Matters.
 - IV. Recognition of Foreign Law Degrees for Admission to the Local Bar.
 - V. Multi-Disciplinary Partnerships.
 - VI. Regional and China Legal Work.
 - VII. Promotion and Marketing of Legal Services.

VIII. Promotion of Singapore as a Regional Alternative Dispute Resolution (“ADR”) Service Centre.

IX. In-House Legal Departments and/or Counsel of Private Corporations.

X. Promotion of Singapore as a Regional Intellectual Property Hub.

I. Changes that are needed in Legal Education

7. The LWG recognises the need for Singapore lawyers to develop niche expertise in life and bio-sciences, information technology and media; e-commerce, cyberlaw and various aspects of international trade law and financial services. Some knowledge of substantive Chinese law is also important following China’s entry into the World Trade Organisation (“WTO”).

8. NUS law professors and other contributors to legal literature should consider research in Asian law and other comparative legal systems. The legal curricula of NUS should therefore be oriented around a transnational legal system (going beyond the Singapore legal system), spanning core and specialist subjects.

9. It is recommended that the current 4-year Bachelor of Laws (Honours) course can be retained but should be supplemented by (a) combined degree courses and (b) Masters of Laws programmes in different areas of specialisation (for example, technology law, international trade law, banking and finance, international commercial law, maritime and international law).

10. The LWG has also recommended that more opportunities and funding be given to mature students and graduates in other disciplines to take accelerated law degree courses. This will create future multi-disciplined lawyers who may find niche areas of practice in accountancy, biotechnology, medicine and engineering.

II. Regional Hub for Legal Training and Research

11. Further initiatives which would promote Singapore as a regional hub for legal training and research include the following:
 - (a) to set up an Institute of Asian Legal Studies in Singapore with a view to facilitating an exchange of Asian legal scholars who will teach and research in Singapore.
 - (b) to establish facilities and scholarships for local and foreign students to pursue dual or combined law degree courses, as well as language courses and executive programmes, in Singapore and overseas.
 - (c) to market and promote the NUS Law Faculty's law courses in the region.
 - (d) to put into place an attractive curriculum and scholarship programme which would attract top legal scholars and Asian and foreign talent to Singapore for research, education and training.
 - (e) for the NUS Law Faculty to work with the Singapore Academy of Law and Law Society of Singapore to further develop continuing legal education programmes.

- (f) for NUS Law Faculty to initiate 'summer school' programmes with other renowned law schools in the US and UK.
 - (g) for NUS Law Faculty to set up local training facilities for local and professional qualification, in collaboration with foreign institutions.
 - (h) for NUS Law Faculty to organise training programmes for students from third-world countries, in collaboration with other prestigious law schools in the US, UK and China.
12. The relevant agencies in Singapore will collaborate and look into setting up a formal training and attachment scheme in Singapore for Chinese lawyers to attend short-term training courses in Singapore. These courses will focus on business oriented subjects (such as Corporate and Commercial Law, Securities, Technology Law and Trade Law). The LWG strongly supports this scheme, which will also provide opportunities for networking between Singaporean lawyers and their Chinese counterparts, and strengthen ties for closer economic and social co-operation in the future.

III. Changes to NUS Law Faculty Admission and Related Matters

13. The annual numerical quota for admission into the NUS Law Faculty should be reviewed regularly to respond to market needs. In particular, the following factors should be applied in determining the size of intake:
- (a) If annual supply exceeds demand, greater competition will be generated.
 - (b) Wages must be kept in check to keep the costs of legal services competitive.

- (c) Many other sectors in the economy will benefit from employing legally trained graduates.
 - (d) The admission quota should also be adjusted to take into account the fact that a significant number of trained lawyers leave the profession annually, or to work abroad.
14. The LWG notes that various other working groups in the Economic Review Committee are projecting ways in which Singapore can aggressively grow the services sector. When such growth occurs, the quota of lawyers will have to be adjusted accordingly.

IV. Recognition of Foreign Law Degrees for Admission to the Local Bar

15. The LWG has recommended that there be no changes made to the current distribution profile of local and overseas law graduates.
16. The proportion of law graduates from the NUS to law graduates from recognised overseas universities should remain at or about 75:25.
17. The current qualifying standards for admission into the Singapore bar should be maintained, that is, First Class or Second Class Upper Honours degrees for Singaporean law graduates from recognised English Universities, or within the top 30% of the graduating cohort in the case of recognised Australian and New Zealand Universities.
18. These qualifying standards should be reviewed periodically to take into account changing market conditions and the growth of the services sector.

V. Multi-Disciplinary Partnerships (“MDPs”)

19. The LWG has had the opportunity to study the developments relating to, and the varied acceptance of, MDPs by other jurisdictions. Singapore should be slow in allowing MDPs between other professionals and law firms for domestic legal practice in Singapore.

20. However, it is recommended that the formation of MDPs outside Singapore for legal work or business should be allowed provided that:
 - (a) conflicts of interest can be satisfactorily addressed, with the necessary checks and balances put in place by the Law Society;

 - (b) our lawyers do not and are not allowed to conduct themselves in a manner unbefitting advocates and solicitors, officers of the Court or members of an honourable profession; and

 - (c) our lawyers do not, and are not allowed to carry on any trade, business or calling which detracts from the practice or profession of law, or is incompatible with it, or are engaged or employed in any such trade, business or calling.

21. The Legal Profession Act and its subsidiary rules will have to be amended to incorporate the above conditions, making it clear that Singapore law firms and lawyers are not prohibited from forming MDPs outside Singapore to provide off-shore legal work. Singapore law firms and lawyers should also be permitted to have business or fee-sharing arrangements with business agents or consultants in respect of the marketing, promotion and introduction of overseas legal work.

VI. Regional and China Legal Work

22. The LWG recognises the need for the legal services sector to seek regional opportunities. To promote effective regionalisation, Singapore law firms and lawyers must depend on Singapore-based companies, investors, banks and government-linked companies (“GLCs”) as sources of work.
23. As far as possible, GLCs should actively retain and instruct Singapore law firms and/or Joint Law Ventures for regional transactional work. In the conduct of such negotiations, they are also well placed to promote Singapore as the forum and choice of law for dispute resolution, whether for litigation or ADR services.
24. Singapore lawyers who are interested in the regionalisation process should be encouraged to accompany economic agencies such as the Economic Development Board (“EDB”) and International Enterprise Singapore (“IE Singapore”) on their overseas missions. This will also promote valuable networking opportunities and new business contacts for our lawyers.

VII. Promotion and Marketing of Legal Services

25. The LWG has recommended that a Special Unit be set up to promote the legal services sector. The Special Unit will be a centralised agency to provide support, information and contacts to enable our Singapore law firms to go regional. It would also be in a position to advise the government on matters relating to international legal services.
26. The Special Unit will work closely with the Law Society to provide the necessary support for key agencies such as EDB to persuade the world’s

top law firms to re-locate their overseas headquarters to Singapore, as well as to promote critical or value-added regional or global business activities.

27. The Special Unit can also work closely with IE Singapore to (i) promote and market Singapore legal services to foreign corporations and financial institutions; (ii) encourage in-house legal departments and corporate counsel of multi-national corporations (“MNCs”)(which service Asia) to re-locate to Singapore; (iii) promote Singapore as a regional dispute resolution centre; and (iv) promote the selection of Singapore law to govern commercial transactions, financial instruments and other contractual documentation.
28. The Special Unit will also be well-placed to promote Singapore ADR services amongst MNCs and foreign companies.
29. The Special Unit should also be encouraged to conduct regular road shows with different groupings of Singapore law firms into the region, especially China. Joint promotion exercises should also be organised with joint law ventures and formal law alliances. These combined efforts should lead to more off-shore work being attracted to Singapore.

VIII. Promotion of Singapore as a Regional Alternative Dispute Resolution Service Centre

30. The key ADR institutions in Singapore are the Singapore International Arbitration Centre (‘SIAC’) and the Singapore Mediation Centre (“SMC”).
31. To promote Singapore as a regional ADR service centre, the LWG has recommended that the SIAC and the SMC should form affiliations with other arbitration centres; and also review the constitution of arbitration

panels, fees, costs, infrastructure and facilities, services, rules and procedures, in comparison with those found in key ADR centres located in London, New York, Geneva and Paris.

32. The ADR institutions in Singapore must aim to achieve unrivalled excellence as centres which provide the following:

- (a) Neutral and impartial determination or resolution of disputes;
- (b) Good arbitrators and mediators, preferably of international standing;
- (c) Cost effectiveness;
- (d) High quality legal services;
- (e) High value-added services;
- (f) Good infrastructure and facilities;
- (g) Quick resolution of disputes; and
- (h) Effective enforcement of arbitral awards or negotiated settlements.

33. Reforms are necessary to build and strengthen the reputation of Singapore's ADR centres as foremost world-class service providers; unrivalled in the region. To achieve this end, a four-pronged strategy has been recommended:

- (a) Creating a Singapore brand of ADR;
- (b) Active marketing and promotion of the services offered by the SIAC and the SMC;
- (c) Government support and funding; and
- (d) Encouraging other leading ADR institutions to set up sub-centres in Singapore.

34. The LWG is of the view that a Singapore brand of ADR can be achieved through which Singapore ADR institutions harness the demand factors

(outlined above in paragraph 32), which clients consider when choosing their forum for arbitration or mediation. A full range of ADR services must be offered, making Singapore a one-stop ADR centre.

35. The LWG has also made specific recommendations such as the enforcement of awards from non-New York Convention Countries in Singapore, with leave of the court. By reciprocity, Singapore arbitration awards would be similarly enforceable in these countries.
36. The Singapore ADR centres should also develop new methodology and alternative models to evolve an Asian brand of mediation for the resolution of disputes.
37. ADR in Singapore can be promoted and marketed through a joint Marketing Council for ADR services under the auspices of the Special Unit (see paragraphs 25-29). This Marketing Council can work with other pertinent agencies such as EDB and IE Singapore to constantly refine and develop an aggressive ADR marketing strategy for Singapore. The Marketing Council must aim at promoting Singapore as an attractive neutral forum for international arbitration and mediation involving non-Singaporean parties. As far as possible, the Marketing Council should also promote the inclusion of SIAC and SMC dispute resolution clauses into contracts.
38. Marketing efforts should be directed at publicising Singapore's ADR services through presentations, conferences, seminars, advertising and publications. ADR 'ambassadors' (comprising senior counsel and arbitrators of high regard) should be deployed to endorse the quality of Singapore's ADR services abroad on behalf of the SIAC and the SMC.

39. Singapore's ADR institutions should also enter into bilateral agreements with other regional ADR institutions that will lead to cross-referrals of ADR cases.
40. By offering cost competitive administrative and IT-support, translation and conference facilities, Singapore can also attract key foreign arbitration and mediation centres to set up regional centres in Singapore. Key ADR practitioners from foreign ADR institutions can also be placed on local ADR panels (with tax incentives). This may lead to an increase in ADR work coming into Singapore.

IX. In-House Legal Departments and/or Counsel of Private Corporations

41. In its 1999 Report, the Legal Services Review Committee, chaired by the Attorney-General, recommended that in order to facilitate the development and adaptation of financial products and increase the volume of supporting legal services, as well as to create an environment for business networking between in-house counsel and lawyers in Singapore, in-house legal departments of global banking and financial institutions should be encouraged to locate in Singapore.
42. As part of the Government's vision to build on Singapore's reputation as a premier location for MNCs in different industries to base and re-locate their operational or overseas headquarters in Singapore, the LWG has recommended fiscal incentives to realise this objective. The Special Unit should actively promote the location of in-house legal departments and personnel in Singapore. This will create more opportunities for Singapore lawyers to provide value-added services to MNCs.

X. Promotion of Singapore as a Regional Intellectual Property Hub

43. As a regional trading and financial center, Singapore is in a good position to develop into an effective regional and international management hub for intellectual property (“IP”). Over the last decade, Singapore has put in place the necessary foundation for an innovation-driven IP-based economy, including the expansion of creative talent in Singapore, the accession to a number of international and bilateral treaties, higher value-added manufacturing and services, and good progress made in the fight against piracy.
44. The Ministry of Law and the Intellectual Property Office of Singapore have been working with the Ministry of Trade and Industry to develop a national IP strategy to stimulate more creation and exploitation activities in Singapore, within a robust legal framework and enforcement record.
45. The LWG recommends three specific initiatives to further enhance the development of Singapore’s IP infrastructure:
 - (a) Developing specialised IP expertise within the Courts – with the increasingly important role which IP-related activities will play in an innovation-driven economy, the time is now ripe for establishing a specialist patents court, complemented by a permanent panel of patents experts who will provide assistance as scientific advisors to Judges.
 - (b) Setting up an IP Academy – the LWG strongly supports plans to establish an IP Academy which will provide comprehensive training for business, research and legal communities. It will have a multi-disciplinary focus, combining technical depth with business acumen and legal knowledge. The IP Academy should tap on the existing

network of local and foreign institutes of higher learning in Singapore, and IP training centres overseas. The IP Academy will also monitor global trends and shifts in policy.

- (c) Providing favourable taxation and incentive regime for IP creation and exploitation – the LWG notes that the ERC Working Group on Taxation has made several IP-related tax proposals, and echoes the need for more liberal deductions for research and development expenditure incurred in the creation of IP, and for automatic writing down allowances to be given for the acquisition of IP. For Singapore to become an IP hub, the LWG is of the view that withholding taxes payable to non-resident service providers should be further lowered. IP creators in Singapore should be able to access the best IP services available in the world at the lowest possible cost.

3. Conclusion

46. The LWG strongly believes that Singapore will develop into a foremost legal services hub only if the very best of Singaporean lawyers are retained and consider it attractive to pursue and develop their careers within domestic and off-shore law firms operating in Singapore.
47. Key recommendations in the Report focus on (a) the training and re-training of Singapore lawyers to service clients regionally and in China; (b) ensuring that Singapore will develop into a formidable and competitive centre for legal services (in high end corporate work and dispute resolution opportunities) that will become increasingly attractive to foreign corporations, MNCs and financial institutions; and (c) the increase of marketing efforts to improve the profile of Singapore law firms, joint law

ventures and formal law alliances for regional and China-related legal work.

48. The LWG is confident that with the implementation of the proposals and initiatives (including fiscal incentives) that are set out in its Report, further infrastructure and opportunities will be put in place to enable Singapore law firms to develop formidable expertise in advisory, dispute resolution and transactional services. The LWG is confident that in the long term, the private legal services sector will be well placed to enjoy sustained growth, both domestically and regionally.

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