

立法會
Legislative Council

LC Paper No. CB(2)1400/00-01
(These minutes have been seen by
the Administration)

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LegCo Panel on Security

Minutes of meeting
held on Thursday, 1 March 2001 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LAU Kong-wah (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, JP
Hon Ambrose LAU Hon-chuen, JP
Hon IP Kwok-him, JP

Members attending : Hon Emily LAU Wai-hing, JP
Hon Frederick FUNG Kin-kee

Members absent : Dr Hon LUI Ming-wah, JP
Hon WONG Sing-chi

Public Officers attending : **Item III**

Mrs Regina IP, JP
Secretary for Security

Mr Raymond WONG, JP
Deputy Secretary for Security 1

Miss Eliza YAU
Principal Assistant Secretary for Security E

Mr Benedict LAI
Deputy Law Officer (Civil Law)
Department of Justice

Mr NG Wai-kit
Director of Operations
Hong Kong Police Force

Item IV

Mr Timothy TONG, JP
Deputy Secretary for Security 3

Mr Alan CHU
Principal Assistant Secretary for Security D

Ms Cynthia WONG
Assistant Secretary for Security D2

Mr K Y MAK
Assistant Director of Immigration

Item V

Mr Timothy TONG, JP
Deputy Secretary for Security 3

Mr Alan CHU
Principal Assistant Secretary for Security D

Miss May CHAN
Assistant Secretary for Security D1

Ms Cynthia WONG
Assistant Secretary for Security D2

Mr William SHIU
Principal Assistant Secretary for Transport

Mr LEE Yan-ming
Chief Traffic Engineer/New Territories West
Transport Department

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Mr TONG Hin-yeung, David
Assistant Commissioner of Customs and Excise
(Border and Drugs)
Customs and Excise Department

Mr TANG Man-kit
Senior Principal Immigration Officer (Border)
Immigration Department

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2)1

Staff in attendance : Mr Jimmy MA, JP
Legal Adviser

Mr Raymond LAM
Senior Assistant Secretary (2)5

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I. Confirmation of minutes of meeting held on 18 January 2001 and matters arising
(LC Paper Nos. CB(2)942/00-01 and CB(2)941/00-01(01))

The minutes of the meeting held on 18 January 2001 were confirmed.

List of follow-up actions required of the Administration

2. Members noted the list of follow-up actions required of the Administration.

II. Date of next meeting and items for discussion
(LC Paper No. CB(2)941/00-01(02))

3. Members agreed to discuss the following items at the next regular meeting to be held on 3 April 2001 at 10:45 am -

- (a) Progress of establishing an arrangement with the Mainland on surrender of fugitive offenders;
- (b) Proposed amendments to the Massage Establishments Ordinance; and
- (c) Proposed amendments to the Fire Services Ordinance.

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4. Members also agreed to discuss the following items at the regular meeting in May 2001 -

- (a) Briefing on anti-smuggling work of the Customs and Excise Department; and
- (b) Juvenile crime and problem of youth gangs.

5. Mr James TO said that there were recent reports that the Mainland had just passed legislation relating to the surrender of fugitive offenders between China and other countries. He suggested that the documents considered and deliberated during the examination and passage of the relevant legislation by the Mainland be circulated to members to facilitate their understanding of the principles adopted by the Mainland on the surrender of fugitive offenders. In this connection, Legal Adviser said that the Research and Library Services Division of the Legislative Council (LegCo) Secretariat was conducting a research study on the agreement between Hong Kong and the Mainland concerning the surrender of fugitive offenders. As Mainland legislation on the surrender of fugitive offenders was also examined in the study, he could gather the relevant information for circulation to members.

6. Miss Margaret NG stressed that Mainland legislation was not applicable to Hong Kong. She considered that there might not be any point in examining the information suggested by Mr James TO, if such information was irrelevant to the arrangement between the Hong Kong Special Administrative Region (HKSAR) and the Mainland on the surrender of fugitive offenders. Mr James TO said that he suggested gathering the relevant information merely because such information might shed light on the views and principles adopted by the Mainland towards the surrender of fugitive offenders. The Chairman said that as members were at liberty to interpret any information received, the suggested information should be circulated to members for consideration.

7. The Chairman said that the Administration had, at his request, provided an information paper on incidents involving explosives and fireworks. The paper would be issued to members on the next day.

(Post-meeting note: The paper was circulated to members vide LC Paper No. CB(2)979/00-01(01) on 2 March 2001.)

8. The Chairman informed members that the Administration had been requested to provide a paper on recent reports that a mentally disabled man was found to have crossed the boundary to the Mainland without a travel document and a transit passenger at the Hong Kong International Airport managed to enter Hong Kong without going through immigration clearance.

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Visit to penal institutions

9. The Chairman said that the Administration had invited members to visit the Shek Pik Prison and the Chi Ma Wan Correctional Institution. Mr James TO said that he was more interested in the information studied by the Administration in drawing up the prison development programme, which involved the co-location of penal institutions. Mr Andrew WONG shared the same view and said that he was more interested in joining the visit if it was focussed on areas such as Stanley, where penal institutions were co-located, so that a briefing on the proposed prison development programme could be made. Members agreed that a visit to penal institutions be made in May 2001.

III. Policy on handling activities of associations registered under the Societies Ordinance and enforcement of the Ordinance
(LC Paper No. CB(2)941/00-01(03))

10. Mr CHEUNG Man-kwong advised that according to paragraph 5 of the Administration's paper, the Police would only conduct investigations on receipt of public complaints or information. Although there were complaints against the Hong Kong Association of Falun Dafa (Association of Falun Dafa) for distributing leaflets in the street, dropping such leaflets into the letterboxes of ordinary citizens and sending unwelcome electronic mails (e-mails), these were not unlawful acts. He queried whether it was too high in profile for the Secretary for Security (S for S) to indicate that there was a need for the Government to keep in view the activities of the Association of Falun Dafa.

11. S for S responded that she had made some comments on Falun Gong at the reception hosted by the Chinese General Chamber of Commerce on 1 February and after the meeting of the Fight Crime Committee held on 23 February. Such comments were made at the request of the media and there was no question of being high profile. In fact, the Administration did receive complaints from the public, claiming that there were people obstructing passers-by in the street to distribute leaflets on Falun Gong, dropping such leaflets into the letterboxes of ordinary citizens and sending off e-mails about Falun Gong. She had never alleged such acts as unlawful ones. However, if there were complaints from the public, the Administration has the responsibility to examine whether the party being complained of had violated any legislation. She supplemented that the legislation being violated might not necessarily be the Societies Ordinance. For example, "e-mail spamming" which undermined the operation of computers of others might have violated the Crimes Ordinance; posting of any obscene, immoral, indecent, offensive or libellous writing, picture or other thing might have violated the Post Office Ordinance; fly tipping of leaflets might have violated the Public Health and Municipal Services Ordinance, while placing too many leaflets on the street might constitute the offence of causing obstruction.

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12. Mr CHEUNG Man-kwong asked whether the Association of Falun Dafa had committed the offences of “e-mail spamming” and fly tipping of leaflets. He considered that even if such acts had violated certain legislation, referring the cases to the Police would be adequate. There was no need for S for S to handle the cases personally or even keep the matters in view. It seemed that the Administration was being high profile in adopting such an approach.

13. S for S stressed that she was not being high profile, and said that the Administration did receive complaints against the Association of Falun Dafa, though no unlawful acts had been identified so far. She had, at the reception hosted by the Chinese General Chamber of Commerce on 1 February, merely pointed out that Hong Kong was a place where the rule of law prevailed, and that the Administration would handle all the activities of societies according to law. Moreover, it has also been noted that the Association of Falun Dafa was being high profile in its recent activities in Hong Kong. The Association was very well-organized and its activities were directed against the Central Government. Therefore, the Administration would keep its activities in view. She considered it fair to say so. Falun Gong was introduced into Hong Kong as early as 1993 and it is a fact that the Association was being high profile in its activities lately. For example, they had never rented the external wall of a building in Tsim Sha Tsui for posting advertisements before. Furthermore, practitioners were sent to carry out sit-in demonstrations from 9 am to 5 pm daily outside the Liaison Office of the Central People's Government in the HKSAR (Liaison Office). All these were lawful acts and they have the right to exercise their civil rights, yet there was nothing wrong for the authority in charge of security affairs to keep in view the activities of a very well-organized association which always ran counter to the Central Government. She also pointed out that both governments of the United Kingdom (UK) and the United States (US), as well as media from all over the world were also keeping in view the activities of the association of Falun Gong.

14. Mr CHEUNG Man-kwong said that it was not an offence to direct the target of an association's activities against the Central Government. He asked what the Association of Falun Dafa had done to prompt the Administration to keep its activities in view.

15. S for S reiterated that the Administration did receive complaints from the public, alleging that they were harassed and disturbed by the behaviour of those from the Association of Falun Dafa. Some residents in Wong Tai Sin district had been dissatisfied with being obstructed by those distributing leaflets on Falun Gong. The Po Lin Monastery had also lodged similar complaints, claiming that such acts had breached the peace of the area. She pointed out that the authority in charge of security affairs should be responsible for keeping the activities of a particular association in view, so as to find out if it had done anything in breach of the peace and public order, or whether it had committed any offence.

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16. Referring to paragraph 4 of the Administration's paper, Mr James TO asked whether the Administration had kept in view the activities of the Association of Falun Dafa merely from the angle of public order, but not from the angle of safeguarding national security, etc as provided under section 5D(1) of the Societies Ordinance. He advised that "e-mail spamming" and obstructing passers-by in the street seemed to have no relation to the fact that the association of Falun Gong was well-organized and its activities were directed against the Central Government. He also enquired about the methods adopted by the Administration to keep in view the activities of the Association of Falun Dafa; whether the Security Wing of the Hong Kong Police Force had been requested to monitor the Association; and whether the Administration had kept the activities of the Association in view by means of newspaper cuttings, keeping track of the people concerned, interception of communications, etc.

17. S for S responded that the cases she just mentioned on people being harassed and disturbed were cases in which public peace and public order might be affected, thus requiring attention from those angles. The activities of the association of Falun Gong were not kept in view in the light of certain provisions of a particular piece of legislation. She pointed out that "e-mail spamming" should not necessarily be related to the fact that the association of Falun Gong was high profile in its activities and had directed its target against the Central Government. There were numerous ways for the Administration to keep an eye on their activities, such as by means of newspaper cuttings as suggested by Mr James TO. She reiterated that apart from the Administration, both governments of the UK and the US, as well as media from all over the world also paid attention to the activities of the association of Falun Gong.

18. Miss Emily LAU asked whether the Administration would deploy resources to monitor an association if it was found that the association had kept a high profile, had been well-organized and had directed its target against the Central Government. In response, S for S pointed out that many other activities such as the "commemoration of the June 4 incident" had also directed its target against the Central Government, yet they had not become the focus of international media attention. The association of Falun Gong, however, had received extensive attention from all over the world. She considered it necessary to analyse the characteristics of the association and its activities.

19. Miss Emily LAU considered that if those in power kept a high profile in directing their target against a certain group of people, those people would become the focus of international attention. Similarly, if the Chinese Government targeted against some people in a lofty manner, those people would become the focus of attention of the international media. An association that S for S had targeted against in a clamorous way would also become the focus of media attention. She asked whether the Administration would attach great importance and pay close attention to people who keep a high profile in targeting against the Central Government.

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20. At the request of Mr Andrew WONG, the response made by S for S was recorded verbatim as follows —

“Although I have made some brief remarks upon media requests after attending a cocktail reception or a function organized by the Fight Crime Committee, it would be difficult to give an account of the Government’s views in just a few words.

The Association of Falun Dafa is not an ordinary association. First of all, I must emphasize that it is absolutely legal for anyone to organize processions and demonstrations. The freedom of procession and assembly as well as the freedom of expression are well protected under the Basic Law and the laws of Hong Kong, and people are definitely free to exercise their rights lawfully. Members who spoke just now are correct in saying that there were many associations that had criticized the Central Government and organized demonstrations and protests outside the Liaison Office. What is so different about the Association of Falun Dafa?

It is of course a distinctive association. First of all, although the Association claims itself to be an informal and loosely-managed association, these are only superficial. In fact, it is obvious to all that this is a very well-organized association. If it has fragmented organization, there would not be organized activities like sit-in demonstrations and displaying of banners held in certain places from 9 am to 5 pm everyday. It is a fact that they are appealing against the Central Government. I am just telling the truth and have no intention to criticize the Association.

Secondly, if the Association is not a well-organized one, it would not be possible for it to conduct large-scale assemblies in Hong Kong involving practitioners from all over the world, with all the meetings and processions held in a coordinated manner. Conclusion could thus be drawn that it is a very well-organized association. Besides, it is also an association with ample resources, and I believe that its financial position should be very sound. As evidenced from the relevant newspaper cuttings, it would not be possible for the Association to rent a space on the external wall of a building in Tsim Sha Tsui for posting advertisements if it does not have ample financial resources. The Association has even tried to rent with high rental a space on the external wall of a building in the proximity of the Liaison Office for the same purpose. What we are concerned about is what kind of an association is this? It is a registered association, and I notice that there were attempts to discuss Falun Gong within the context of freedom of religion, but the Association refused to attend, claiming that Falun Gong was not a religion. If Falun Gong is not a religion, then what kind of an association is it?

The Association has a distinctive feature. From the publications released by the Association, I consider it a heretical sect because its writings contain a lot of superstitious beliefs. For example, where illnesses are mentioned, it is

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advocated that there was no use to consult a doctor when one was ill, because illnesses were actually results of “karma on illness” (“病業”) caused by the evildoings in one’s previous existence. Ordinary people who consult a doctor, take medicine or undergo operations when they are ill are just pushing the “karma on illness” deep into their bodies. Therefore, it would be better to practise Falun Gong. The more you read about the books on Falun Gong, the more you will think you are reading the books on “Magic Mountain” (“《蜀山》”). In the publications, it is suggested that through cultivation and refinement, practitioners could attain the lofty realms of “integrated cultivation of spiritual nature and bodily life” (“性命雙修”), “three spiritual flowers revolving over one’s head” (“三花聚頂”), “primordial spirit left the body” (“元神出竅”), “omniscient celestial eye” (“天眼通”), etc. The publications contain a lot of traditional Chinese superstitious beliefs. The Association claims that Falun Dafa is an upright and cosmological cult that is above all religions. Even Buddhism is inferior to and a smattering of this great cult. All these ideas appear in the writings of LI Hongzhi.

LI Hongzhi is enormously influential to people reading his books and following his doctrines. Under his influence, his followers would behave and act in an abnormal way. For example, a well-educated engineer came to Hong Kong from the US in the hope of witnessing the epiphany of the Great Buddha on Lantau Island. However, she was refused entry into Hong Kong and for this reason, she went on a hunger strike and insisted to carry on with the strike without balking at any sacrifice, even giving up her unborn baby. Would a normal person behave in this way? There were also overstayers in Hong Kong who claimed that they were Falun Gong practitioners. When officers of the Immigration Department called at the place they stayed, they made an uproar and threatened to “jump to death”. Would a normal person behave in this way?

In conclusion, Falun Gong is a so-called “doctrines” with heretical features. It has a lot of fanatical followers, who have gone so far as to behaving irrationally. There were practitioners who set themselves on fire in the Mainland, and some of them in Hong Kong have also committed acts of harassment. The Association of Falun Dafa is a very well-organized association with abundant resources. As the authority in charge of security affairs, what is so improper for us to pay particular attention to the Association and merely keeping it in view?”

21. Mr Albert HO said that it would be fair to say that whether the Administration was keeping a high profile in monitoring the Association was actually beyond the control of S for S. It was of public concern that on what grounds did the Administration keep the Association of Falun Dafa in view, and what was meant by “keep in view”. Although S for S had pointed out that the Association of Falun Dafa was by no means ordinary, and that it was well-organized, capable of organizing large-scale activities involving practitioners from all over the world, an association that engaged in demonstrations frequently and had ample resources; there were actually many other associations which

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organized activities frequently and criticized the Central Government. There were also many other books that gave instructions on cultivation and refinement to attain the realms of “omniscient celestial eyes” and “primordial spirit left the body”, some of them also pointed out that “the power of karma” (“業力”) had decisive influences on one’s destiny. Some other religions also advocated similar beliefs. All these had existed for a few decades and had given rise to intensive public debates. He queried whether the Security Bureau should pay attention to such matters. He pointed out that Hong Kong was a free society, and given the sound civic education and the availability of sufficient information, different sectors of the community could differentiate between the right and the wrong through adequate debates. He asked whether the Association of Falun Dafa had committed any serious offence that would prompt the Administration to cancel its registration under section 5D of the Societies Ordinance, or to deploy much resources to keep its activities in view so as to collect evidence and have the party concerned prosecuted. He pointed out that the association of Falun Gong had been branded as an illegal evil cult in the Mainland. Strong views had been expressed repeatedly by the Central Government, urging the HKSAR Government to prevent the association from acting against the Central Government in the region, or even turning Hong Kong into a base for subversive activities against the Chinese Government. In this connection, he asked whether the Administration was under the pressure to keep the activities of the Association of Falun Dafa in view.

22. S for S said that the most extraordinary feature about the association of Falun Gong was, despite its heretical and superstitious doctrines, it had attracted numerous followers. She advised Members that apart from the publications on Falun Gong, she had also studied the many letters and information leaflets sent to her by Falun Gong practitioners, including information on some so-called “true stories”. Some practitioners even stated in their letters that cancers could be cured simply by practising Falun Gong without the need to take any medicine. Besides, many people were so obstinate about the doctrines of Falun Gong that they believed in, thus behaving irrationally. In order to safeguard public safety and public peace, the Administration had to pay special attention to the Association.

23. S for S also said that the Administration was not under the pressure of the Central Government. Under the principle of “one country, two systems”, legislation and resolutions passed in the Mainland were of no effect in Hong Kong. The HKSAR Government would act according to law. The Association of Falun Dafa was a lawful society. It might continue with its operation if it had not violated the Societies Ordinance. Its members might organize processions everyday provided that the Public Order Ordinance was complied with. She added that the Administration had not received any requests or instructions requiring the cancellation of the registration of the Association of Falun Dafa under section 5D of the Societies Ordinance. Moreover, she pointed out that from the legal point of view, it was absolutely inappropriate to comment on the likelihood of banning an individual association.

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Even if an association had to be banned, it should be done in accordance with the established procedures as provided in the law. She stressed that the civil rights, freedom of speech, freedom of processions and demonstrations enjoyed by Hong Kong people were safeguarded and could not be deprived of.

24. Miss Margaret NG said that there were many discussions about qigong (“氣功”) and people with extraordinary power before 1997, some even wanted to go to visit people with extraordinary power in the Mainland. There was in fact nothing special about it and the Administration had never intervened. The laws of Hong Kong had all along been based on one’s behaviour but not his thoughts. Anyone who acted against the law must be sanctioned regardless of his thoughts. On the contrary, there would be much flexibility if a person’s thoughts had no connection with his behaviour. If the Administration kept an association in view only because its doctrines were heretical and superstitious, she worried that the Administration would keep people’s thoughts and writings in view in future, and watched and monitored those who were considered having incorrect ideas or those who criticized the Central Government.

25. S for S responded that there was no need for Members to worry that the freedom of thought would be infringed. The freedom of thought, conscience and opinion was absolute and no one could exert control over the thoughts of others. However, it would be different if thoughts were transferred into action, because action might have impact on others. The Administration was concerned about the action of people from the security point of view, but not their thoughts. Whether the persons concerned had criticized the Central Government was not a factor to be considered. The Administration had kept the Association of Falun Dafa in view in order to safeguard public safety and public peace. She added that her concern over Falun Gong was not aroused merely by its heretical doctrines, but also by the fact that it was enormously influential to its followers, some of whom were so obstinate about their beliefs that they had acted irrationally or even done something to hurt themselves.

26. Mr Andrew WONG said that under the established practice of the laws of Hong Kong, a person’s acts but not his thoughts were used to determine whether he was guilty or not. He pointed out that the behaviour that aroused S for S’s concern was also found in many other associations. For example, the Mormon Church had published a book entitled the “Book of Mormon”, and its followers were allowed to have four wives. Many religions advocated the belief that one would enter heaven after death, and Buddhism also suggested that people would go to hell with 18 levels and reincarnate after death. All these were superstitious doctrines. Besides, some qigong societies also promoted the practise of qigong and cultivation and refinement. He queried on what basis would the Administration make its judgement to determine whether it should keep a particular association in view. Referring to section 8(1) of the Societies Ordinance, he pointed out that the Societies Officer might recommend S for S to make an order prohibiting the operation of a society if he reasonably believed that the prohibition of the operation of the society was necessary in the interests

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of national security or public order (*ordre public*). Since the term “*ordre public*” had a very broad meaning, he was worried that for large-scale societies that appeared to be well-organized and influential, the Societies Officer might, on the ground of “*ordre public*”, recommend S for S to prohibit the operation of the society under section 8(1)(a) of the Societies Ordinance, thus rendering it an unlawful society. He asked whether the Administration was heading along this approach.

27. S for S replied that a person’s thoughts would definitely not be a determining factor in deciding whether the person was guilty or not. Ultimately, it should be the person’s acts that determined whether the person was guilty. An association being kept in view by the Administration did not necessarily suggest that the association had committed any offence. As the Administration had the responsibility to safeguard public peace, it was duty-bound to pay attention to any irregular developments in the society. She also pointed out that section 8 of the Societies Ordinance should be read together with section 2(4) of the Ordinance. It was provided in section 2(4) of the Ordinance that the expressions “public safety”, “public order” and “the protection of rights and freedoms of others” were interpreted in the same way as under the International Covenant on Civil and Political Rights (ICCPR) as applied to Hong Kong. “National security” means the safeguarding of the territorial integrity and the independence of the People’s Republic of China. Therefore, the power provided under section 8(1)(a) of the Societies Ordinance could not be exercised lightly, but should be exercised in accordance with the relevant legislative provisions and with justifications.

28. Mr Andrew WONG pointed out that the meanings of terms such as “*ordre public*” were not defined in ICCPR. In response, S for S said that although the meanings of terms such as “*ordre public*” were not defined in ICCPR, there were many cases in a number of foreign countries and courts practising common law from which reference could be drawn.

29. Mr James TO said that concern for the security of Hong Kong was one of the tasks included in the charter of the Security Wing of the Hong Kong Police Force. It was stated in paragraph 4 of the Administration’s paper that there was a need for the Administration to keep in view the activities of the Association of Falun Dafa. In this connection, he asked whether it was justifiable to deploy resources of the Security Wing to take actions such as surveillance, monitoring and interception of communication against associations identified to be evil cult and superstitious, and issue order for interception of communication on the ground of “public interest” by the Chief Executive of the HKSAR under section 33 of the Telecommunications Ordinance.

30. Mr CHEUNG Man-kwong said that though a particular association was appealing against the Central Government, capable of organizing global activities and staging well-organized processions, abundant in resources, publishing writings that seemed to be heretical and superstitious, and having some followers

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behaved in an abnormal manner, all these were outside the purview of the Security Bureau. He enquired about the reasons and legal basis on which the Security Bureau kept the activities of the Association of Falun Dafa in view.

31. Miss Emily LAU sought information on the number and nature of complaints received against the association of Falun Gong, and results of investigations of these complaints. She also asked about the resources, manpower and equipment used to watch, monitor, investigate and keep track of the persons concerned.

32. Miss Margaret NG pointed out that according to the judgment made by the Court of Final Appeal on a case concerning the national flag, the term “*ordre public*” as referred to in section 8(1)(a) of the Societies Ordinance had a very broad meaning. Much flexibility had also been provided in ICCPR for the courts to interpret the term. Therefore, if an association advocated heretical but influential doctrines, the Administration could simply prohibit its continual operation on the ground of “*ordre public*” as provided in section 8(1)(a) of the Societies Ordinance, and all its activities would become unlawful. She asked how the definition of “*ordre public*” would be narrowed.

33. Mr Andrew WONG asked whether a society aggrieved by the decision made by the Chief Executive in Council under section 8(7) of the Societies Ordinance could lodge an appeal to the court. He also pointed out that if it was ruled under section 18(1)(b) of the Societies Ordinance that a particular society was an unlawful society, persons claimed to be its members would also violate the Ordinance. Even if they lodged an appeal, there would be little chance of winning the case.

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34. The Chairman requested the Administration to provide written response on the issues raised by Members as contained in paragraphs 29 to 33 above.

IV. European Union: Visa-free access for Hong Kong Special Administrative Region passport holders

(LC Paper No. CB(2)941/00-01(04))

35. Deputy Secretary for Security 3 (DS for S3) briefed Members on the latest development of visa-free access to the European Union for HKSAR passport holders. He said that the European Parliament was expected to discuss and adopt a report on a draft Council Regulation on visa policy at its plenary session which would be held a few hours later. The draft Regulation was expected to be considered and adopted by the Justice and Home Affairs Council of the European Union in mid-March. When the Regulation came into operation, visa-free access to the European Union would be granted to certain countries and territories including HKSAR.

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36. Mr James TO commended the Administration for its continued efforts in lobbying other countries to grant visa-free treatment to HKSAR passport holders. Mr Howard YOUNG and Mrs Selina CHOW added that the granting of visa-free access by the European Union was a major breakthrough in the promotion of travel convenience for HKSAR passport holders.

37. Mr James TO asked whether the visa-free treatment to be granted by the European Union was unconditional. He also asked whether there were implementation problems with the readmission agreement signed between HKSAR and the Federal Republic of Germany (Germany). DS for S3 responded that the visa-free treatment was not accompanied by any pre-conditions. While the Administration would negotiate a readmission agreement with the European Union, the granting of visa-free treatment could take effect before the conclusion of such a readmission agreement. He added that the readmission agreement signed between HKSAR and Germany had not created difficulties for the Immigration Department (ImmD). The types of persons that should be returned were clearly set out in the agreement. While a readmission agreement was not yet drawn up with the European Union, he envisaged that the agreement thus drawn up would not create any problem on the immigration side.

38. Mr James TO asked whether there was established international practice in respect of readmission. He also asked whether the proposed relaxation of requirements for Mainland residents to visit Hong Kong would have any impact on the readmission. DS for S3 responded that although there was no international practice on readmission, the requirements in the readmission agreement with Germany were very reasonable. He added that the readmission agreement was applicable to persons holding valid visas issued by Hong Kong who went to Germany without any visa issued by the latter. It was not applicable to persons permitted to enter Hong Kong without the need to apply for a visa. He said that visitors required to obtain a visa before coming to Hong Kong only amounted to less than one percent of the total number of visitors to Hong Kong.

39. In response to members' questions about Mainland residents who travel via Hong Kong to Germany without a visa granted by the latter, DS for S3 said that Mainland residents who travel via Hong Kong to Germany were only visitors on transit and therefore not covered in the readmission agreement.

40. Mr Howard YOUNG said that the Administration should highlight the differences between a HKSAR passport and a Chinese passport to Member States of the European Union. Mr Andrew WONG suggested that a telephone hotline in Europe should be provided to HKSAR passport holders so that they could seek assistance when they encountered problems in their visa-free access to any Member State of the European Union. He added that HKSAR passport holders who were denied visa-free access and had not sought assistance through the telephone hotline should be encouraged to report their problems to the Administration when they came back to Hong Kong so that the attention of the

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Adm European Union could be drawn to such incidents. DS for S3 agreed to consider the suggestions.

41. Mrs Selina CHOW asked whether visa-free access to Hong Kong was granted to passport holders from all Member States of the European Union. She said that some businessmen were worried that the granting of visa-free access by the European Union would create more opportunity for Hong Kong residents to spend money outside Hong Kong. She hoped that the travel convenience for visitors to Hong Kong could be enhanced so that more visitors would come to Hong Kong. DS for S3 said that passport holders of all Member States of the European Union were granted visa-free access to Hong Kong. He added that besides the promotion of travel convenience for HKSAR passport holders, efforts were also made by the Administration to promote travel convenience for visitors to Hong Kong.

42. Referring to paragraph 5 of the Administration's paper, Mr Howard YOUNG asked whether the remaining procedure involved the separate granting of visa-free access by the respective Member States of European Union or the granting of visa-free access by all Member States of the European Union at the same time. DS for S3 responded that after the draft Council Regulation was formally adopted, the Member States of the European Union would proceed with the implementation of visa-free access in their own countries. Assistant Director of Immigration added that once the Council Regulation was formally adopted, the visa-free access would be implemented by 13 relevant Member States of the European Union at the same time. Further negotiation with individual Members States were not necessary.

V. Measures to ease passenger congestion at border control points
(LC Paper No. CB(2)941/00-01(05))

43. Mr CHEUNG MAN-kwong said that there were newspaper reports that Mr P T CHOY, former Deputy Director of Immigration, had expressed concern prior to his retirement that the shortage of immigration staff at the Lo Wu Control Point, where annual passenger traffic had reached 130 million, was very serious. Each train could carry 3 000 passengers and the platform at the Lo Wu train station could only accommodate 5 000 passengers. If additional manpower was not provided to cope with the increasing passenger traffic, the tragedy of some people stepping onto others might occur when the immigration counters failed to cope with the huge passenger flow. He asked whether the immigration manpower at the Lo Wu Control Point would be strengthened.

44. DS for S3 said that Mr P T CHOY had also reflected his concerns to the Security Bureau, which was very concerned about the issue and strongly supported ImmD's request for additional manpower. The Administration was fully aware of the urgency in addressing the problem. It hoped that financial provision for increasing immigration manpower at the cross-boundary control

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points could be secured in the short future. He said that the Administration was pleased to arrange a half-day visit for members to inspect the cross-boundary control points at Lo Wu and Lok Ma Chau.

45. Mr CHEUNG Man-kwong asked whether short-term measures would be adopted in the long holidays in March and April, such as the Easter holidays, when huge numbers of people were expected to cross the boundary. DS for S3 responded that more immigration staff, including members of the Task Force, were deployed during long holidays to cope with the increased passenger flow. In this connection, Mr CHEUNG Man-kwong said that the newspaper reports had also quoted the information provided by Mr P T CHOY that after the arson at ImmD's Wan Chai office in August 2000, one-third of members of the Task Force were deployed for performing security duties, another one-third had been deployed for handling matters related to right of abode. This implied that only one-third of the Task Force could be deployed for the boundary control points. DS for S3 said that much flexibility had been exercised in the deployment of the Task Force. Where necessary, all members of the Task Force would be deployed to perform a particular duty. He reiterated that priority was being given by the Administration to increasing the immigration manpower at the cross-boundary control points. He added that the Police was also playing an important role in mass control at the cross-boundary control points. Senior Principal Immigration Officer (Border) (SPIO(B)) added that as there were much fewer goods vehicles passing through the Lok Ma Chau Control Point during the festivals, there was sufficient immigration manpower for coping with the increased passenger traffic.

46. Mr IP Kwok-him said that according to his experience in crossing the boundary, passenger flow was not a problem at major festivals, as a large number of immigration staff were deployed in anticipation of the increased passenger flow. Passenger clearance problems usually occurred when the number of passengers increased unexpectedly on normal days. He said that besides addressing the problem through increase in manpower and expansion of facilities, the Lok Ma Chau-Huanggang shuttle bus service should also be enhanced. Referring to paragraphs 19 and 20 of the Administration's paper, he questioned why the service frequency of the shuttle bus service could not be increased in addition to replacing the bus fleet with larger vehicles.

47. Chief Traffic Engineer/New Territories West of the Transport Department said that the proposed replacement of part of the bus fleet with larger vehicles would increase the capacity of the shuttle bus service by 18% to 20%. The passenger carrying capacity of the shuttle bus service could be further increased, if necessary, subject to environmental constraints, such as the maximum number of clearance counters which could be accommodated in the passenger processing terminal at Lok Ma Chau, and the agreement of the Mainland authorities. He undertook to examine increasing the passenger carrying capacity of the shuttle bus service with ImmD and the Mainland authorities. SPIO(B) said that although there were only ten shuttle buses, the buses would depart the terminals

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whenever they were fully loaded with passengers. DS for S3 added that the Phase II construction of the Lok Ma Chau Expansion Project, which would increase the daily passenger handling capacity from 25 000 to 35 000, had commenced in December 2000 and was scheduled for completion by 2003.

Adm 48. The Chairman said that the problem of inadequate number of shuttle buses had existed for a long time and the Administration had repeatedly turned down requests for increasing the number of shuttle buses. Mr Frederick FUNG said that according to the contract signed between the Transport Department and the operator of the shuttle bus service, the number of shuttle buses was strictly limited to ten vehicles and only six out of the ten shuttle buses were allowed to be replaced with larger vehicles. He added that passengers of shuttle buses were prevented from getting off the shuttle buses whenever the concourse at Lok Ma Chau, which could only accommodate 400 passengers, was full. DS for S3 undertook to examine with the Transport Department and the Immigration Department whether the shuttle bus service could be further enhanced and provide a written response. The Chairman requested the Administration to provide the written response before the Ching Ming Festival on 5 April 2001.

49. Mr Andrew WONG asked whether there were plans to provide shuttle bus service at other cross-boundary control points, such as the Man Kam To and Sha Tau Kok control points. Mr Howard YOUNG suggested that "through trains" should be operated between Lo Wu and Hung Hom to relieve passenger congestion.

50. Mr Frederick FUNG said that there was a pressing need to introduce measures to prevent the possible tragedy of some people stepping onto others. He considered that a public address system and guard rail should be installed at the footbridge at the Huanggang control point. The Public Security officials should also play a more active role in the maintenance of order and mass control. SPIO(B) responded that the suggestions had recently been reflected to the Mainland authorities, which had agreed to adopt the suggested measures at the Huanggang control point.

Adm 51. The Chairman requested the Administration to arrange a visit of the Panel to the cross-boundary control points.

52. The meeting ended at 4:40 pm.