

立法會
Legislative Council

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LC Paper No. CB(2)1693/02-03

(These minutes have been
seen by the Administration)

Panel on Security

**Minutes of meeting held on Thursday, 6 March 2003
at 2:30 pm in the Chamber of the Legislative Council Building**

Members present : Hon LAU Kong-wah (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Hon Michael MAK Kwok-fung
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Member attending : Dr Hon David CHU Yu-lin, JP

Members absent : Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon Andrew WONG Wang-fat, JP
Hon Ambrose LAU Hon-chuen, GBS, JP

Public Officers attending : **Items III and IV**

Miss Eliza YAU
Principal Assistant Secretary for Security (E)

Mr CHEUNG Chi-shum
Regional Commander (Marine), Hong Kong Police Force

Item III

Mr LEE Ka-mo
Assistant Director (Port Control), Marine Department

Mr CHEUNG Man-kwong
Assistant Director (Fisheries)
Agriculture, Fisheries and Conservation Department

Mr WAI Chuen
Senior Principal Immigration Officer (Border), Immigration
Department

Item IV

Mr Anthony Martin Height
Acting Director of Finance, Administration and Planning
Hong Kong Police Force

Mr SIN Kam-wah
Acting Chief Superintendent, Planning and Development Branch
Hong Kong Police Force

Mrs Marigold LAU
Project Director, Architectural Services Department

Clerk in attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in attendance : Miss Mary SO
Senior Assistant Secretary (2) 8

I. Confirmation of minutes of previous meetings
(LC Paper Nos. CB(1)965/02-03 and CB(2)1330/02-03)

The minutes of the joint meeting with the Panel on Transport held on 16 January 2003 and the minutes of the special meeting held on 23 January 2003 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1327/02-03(01) and (02))

2. Members agreed to discuss the following items at the next regular meeting

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scheduled for 10 April 2003 -

- (a) Psychotropic substance abuse and actions taken to combat the problem; and
- (b) ICAC Headquarters Building, North Point.

III. Cross-border fishing and criminal activities of Mainland fishing vessels
(LC Paper No. CB(2)1327/02-03(03))

3. At the invitation of the Chairman, Principal Assistant Secretary for Security (PAS for S) introduced the Administration's paper which set out the laws that had particular relevance to cross-border fishing and criminal activities of Mainland fishing vessels and the enforcement actions by the relevant Government departments.

4. Mr Howard YOUNG asked the following questions -

- (a) Whether the issue of "Refusal Notice" to a Mainland vessel by the Marine Police under section 57 of the Immigration Ordinance (Cap. 115) was made on the basis that the owner or his local agent or the master of the Mainland vessel had failed to send a Pre-Arrival Notification (PAN) to the Director of Marine 24 hours before the intended entry of the vessel into Hong Kong waters and to report at the office of the Director of Marine with the required documents within 24 hours after such arrival;
- (b) Whether a Mainland vessel and any person on it could be served with separate "Refusal Notice" from the Marine Police and the Immigration Department (ImmD) under sections 57 and 11 of the Immigration Ordinance respectively; and
- (c) What were Mainland sea urchin vessels referred to in paragraph 11 of the Administration's paper.

5. PAS for S replied in the positive to Mr YOUNG's first question. PAS for S, however, pointed out that the Marine Police would normally give a verbal warning to Mainland vessels which did not have proper immigration clearance and were found in Hong Kong waters to leave. "Refusal Notice" would only be issued to these Mainland vessels if they were still found to be in Hong Kong waters after being given verbal warning to leave. The aforesaid actions would not apply if any person on a Mainland vessel within Hong Kong waters was found to have committed any offence under the Hong Kong laws. If that was the case, the Police would investigate and take appropriate enforcement action. Assistance would be sought from the Police's Mainland counterparts where necessary.

6. Regional Commander (Marine), Hong Kong Police Force (RC(M), HKPF) supplemented that Mainland vessels served with "Refusal Notice" were those which

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the Marine Police had reasonable ground to suspect that they were not in transit and had the intention to fish in Hong Kong waters or did not have local agent or the crew list and/or cargo list provided did not match those on board. Resources permitting, the Marine Police would deploy vessels to see to it that Mainland vessels served with "Refusal Notice" left Hong Kong waters. Information on the refused entry Mainland vessels would be entered into the computer of the Marine Police. Further enforcement actions would be taken against these Mainland vessels if they re-entered Hong Kong waters within 24 hours.

7. Regarding Mr YOUNG's second question, PAS for S said that it was unlikely that the Marine Police and ImmD would issue separate "Refusal Notice" to a Mainland vessel and any person on it. This was because patrolling of Hong Kong waters by the Marine Police was mainly in outer waters, whereas that by ImmD was confined to within the harbour. RC(M), HKPF supplemented that the great majority of "Refusal Notice" were issued by the Marine Police, as the Marine Police had a much larger contingent of vessels than ImmD for patrolling and that most Mainland vessels which did not have proper immigration clearance were found in outer waters of Hong Kong.

8. As to Mr YOUNG's last question, RC(M), HKPF said that Mainland sea urchin vessels were mostly sampans equipped with apparatus for fishing sea urchins. The phenomenon of Mainland sea urchin vessels entering Hong Kong waters without undergoing immigration clearance was rare until 2001, when the number of sea urchins which could be fished at Nan'ao had dwindled. RC(M), HKPF further said that about 140-odd Mainland sea urchin vessels had been issued with "Refusal Notices" since 2001.

9. Mr Howard YOUNG surmised that the number of Mainland fishing vessels entering Hong Kong waters without going through immigration clearance was greater than the number of "Refusal Notices" issued to Mainland fishing vessels, as it was not likely that Mainland fishing vessels, which were primarily run by individuals, would have agents in Hong Kong to help them to comply with the immigration requirements in paragraph 4(a) above.

10. Assistant Director (Port Control), Marine Department (AD(PC), MD) conceded that the exact number of Mainland fishing vessels entering Hong Kong waters without undergoing immigration clearance was not known. This was understandable, in view of the large geographical spread of the waters of Hong Kong. AD(PC), MD, however, pointed out that this did not mean that no action had been taken to prevent such a situation from occurring. For instance, patrol officers of MD randomly inspected vessels in Hong Kong waters to ensure marine safety and compliance with the marine legislation. If person(s) on a Mainland vessel within Hong Kong waters could not produce the required documents to land in Hong Kong, patrol officers of MD intercepting the Mainland vessel within Hong Kong waters would check with their PAN Centre to see whether the vessel concerned had sent a PAN. If the answer was in the negative, the vessel concerned would be instructed to leave Hong Kong waters. AD(PC), MD added that information on PANs kept by MD was shared with the Marine Police to better facilitate the latter in maintaining law and orders in Hong Kong waters.

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11. Mr WONG Yung-kan said that the problem of Mainland fishing vessels entering Hong Kong waters without prior notification and without undergoing immigration clearance had become rampant in recent years. To his knowledge, about 150 to 200 such Mainland fishing vessels could be found in Hong Kong waters each day to fish or steal natural vegetation, particularly Buddhist pines because of the high price these plants could fetch in the Mainland. Mr WONG considered merely instructing Mainland fishing vessels found in Hong Kong waters which did not have proper immigration clearance to leave did not have any deterrent effect, as these vessels invariably headed back to Hong Kong after they were out of sight of the Marine Police. In his view, the Marine Police should immediately detain these Mainland vessels and persons on them once these vessels were detected in Hong Kong waters.

12. PAS for S considered the existing enforcement actions in handling the Mainland fishing vessels in question appropriate, so long as these vessels were not involved in criminal activities in Hong Kong. Completely different course of actions would be taken if a person on a Mainland vessel was found to have committed an offence under the Hong Kong laws. For instance, if a person from a Mainland vessel was found stealing Buddhist pines in Hong Kong, he might be charged under section 9 of the Theft Ordinance (Cap. 210). PAS for S further said that although she could not rule out the possibility that some Mainland fishing vessels would enter Hong Kong waters without undergoing immigration clearance for the purpose of carrying out unlawful activities in Hong Kong, there was no indication that there was a direct relationship between unlawful activities taking place in Hong Kong waters and along the coastal areas and Mainland fishing vessels entering Hong Kong waters without undergoing immigration clearance.

13. RC(M), HKPF also said that the Police was aware of the theft of Buddhist pines from the Sai Kung East Country Park by Mainlanders operating high-speed sampans, which began to occur in 2001. To combat such criminal activity, several pre-emptive operations had been launched by the Police since 2001, and a total of seven, 29 and eight Mainlanders had been caught for stealing Buddhist pines in 2001, 2002 and 2003 to date respectively. As stealing of Buddhist pines by Mainlanders had become increasingly organised over the years, a large scale pre-emptive operation was being planned by the Police. Apart from this, the Marine Police would strengthen liaison with its Mainland counterparts and step up efforts in patrolling the coastal areas of Hong Kong as Buddhist pines were generally planted on the coastal areas.

14. As to detention of Mainland fishing vessels, RC(M), HKPF said that the Marine Police would do so if a Mainland vessel was found to remain in Hong Kong waters after being issued with an "Refusal Notice". Once detained, the vessel would be handed over to the Mainland authorities concerned, and person(s) on it would be treated as illegal immigrants and repatriated to the Mainland. Since 2001, a total of 11 Mainland sampans used for stealing Buddhist pines in Hong Kong were detained by the Police and handed over to the Mainland authorities concerned. Senior Principal

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Immigration Officer (Border) said that ImmD would not detain Mainland vessels, but would refuse persons on board permission to land if they could not produce the required documents to come to Hong Kong. The vessels would be directed to leave Hong Kong immediately.

15. Mr WONG Yung-kan criticised the existing arrangements of only detaining Mainland vessels if these vessels were found in Hong Kong waters after being issued with a "Refusal Notice" was not effective enough in deterring cross-border fishing and criminal activities of Mainland fishing vessels. Moreover, such arrangements were too lenient in comparison with the treatment that Hong Kong fishermen received for trespassing into Mainland waters. Notably, Hong Kong fishermen found fishing in the Mainland waters without a permit had been fined and imprisoned, and their vessels seized and detained by the Mainland authorities concerned.

16. PAS for S responded that there were laws in Hong Kong to adequately deal with unlawful activities taking place in Hong Kong by persons on Mainland fishing vessels. Cross-border fishing, however, was not a crime in Hong Kong. In the light of this, it would be considered too harsh if Mainland fishing vessels which did not have proper immigration clearance and were found engaging in fishing or merely mooring or sailing in Hong Kong waters were detained in the first instance. There was also concern that if such a measure was adopted, the Mainland side might apply the same to Hong Kong fishing vessels entering Mainland waters unknowingly. PAS for S further said that she did not agree that Mainland fishing vessels were getting a lighter punishment for entering Hong Kong waters without undergoing immigration clearance than that which Hong Kong fishing vessels had been getting for doing the same. For instance, person on a Mainland vessel found to have committed any offence under the Hong Kong laws would be charged where appropriate. If a Mainland vessel was detained for failing to comply with the "Refusal Notice", person(s) on it would be treated as illegal immigrants and repatriated to the Mainland, and a fine would need to be paid to claim back the vessel from the Mainland authorities concerned.

17. Responding to Mr WONG Yung-kan's enquiry as to whether the Administration planned to introduce legislation to control cross-border fishing by Mainland fishing vessels, Assistant Director (Fisheries), Agriculture, Fisheries and Conservation Department said that the Administration was working on a proposal to establish a fishing licence programme in Hong Kong. Amendments to the Fisheries Protection Ordinance (Cap. 171) would need to be made to effect this licensing programme. It was the Administration's plan to consult the Panel on Food Safety and Environmental Hygiene on the framework of the proposals before the close of this legislative year.

18. The Chairman pointed out that persons on Mainland vessels which did not undergo immigration clearance were in essence illegal immigrants. In the light of this, the Chairman queried why the Marine Police stopped at instructing Mainland vessels which did not undergo immigration clearance and were found in Hong Kong waters in the first instance to leave and refrained from repatriating persons on the vessels to the

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Mainland.

19. PAS for S explained that this was because persons on Mainland vessels would give reasons, such as they were in transit or on the way to undergo immigration clearance or not aware they had entered Hong Kong waters, all of which were very difficult for the Administration to prove otherwise.

20. Mr James TO said that another way to curb cross-border fishing and criminal activities of Mainland fishing vessels was to seek more assistance from the Mainland.

21. Mr Michael MAK asked whether the Police had encountered any resistance in combating criminal activities of Mainland fishing vessels; and if so, whether any Police officers had been harmed by such resistance. Mr MAK further asked about the Police's co-operation with its Mainland counterparts to prevent criminal activities of Mainland fishing vessels in Hong Kong waters.

22. RC(M), HKPF replied in the negative to Mr MAK's first question. RC(M), HKPF further said that the general law and order in situation in Hong Kong waters remained stable with low levels of reported crime. A total of 111 cases were reported in 2002 compared to 125 cases for 2001, representing a decrease of 11.2%. As to Mr MAK's second question, RC(M), HKPF said that close liaison in the form of regular meetings and exchange of intelligence was maintained with the Guangdong Border Defence Bureau and other Mainland authorities concerned in combating illegal immigration and cross-border crimes.

23. In summing up, the Chairman hoped that the Administration would take into account members' views expressed at the meeting to better safeguard the security of Hong Kong waters and the coastal areas of Hong Kong. PAS for S agreed.

IV. Marine Police Outer Waters District Headquarters and Marine Police North Division at Ma Liu Shui, Sha Tin
(LC Paper No. CB(2)1327/02-03(04))

24. PAS for S took members through the Administration's paper which detailed the background of and the justifications for constructing a purpose-built complex to accommodate the Marine Police Outer Waters District Headquarters (MOWDIST HQs) and Marine Police North Division (MNDIV) on the existing site of MNDIV at Ma Liu Shui, Sha Tin. A short video showing the dilapidated and cramped conditions of the existing MNDIV was also presented at the meeting.

25. Mr CHEUNG Man-kwong expressed strong reservation about the proposal to construct a purpose-built complex to accommodate the MOWDIST HQs and the MNDIV when the Government was running a huge deficit and taxpayers were asked to pay more taxes to help eliminate the deficit. Not only would the recurrent expenditure of the proposed complex increased by an estimated \$2.49 million, it was unfair that the Police should be given funds to build another purpose-built complex

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when the Customs and Excise Department and the Independent Commission Against Corruption had yet to be provided funds to construct their own headquarters buildings. Moreover, Mr Albert LAI, the then Director of Finance, Administration and Planning of HKPF had told members that the \$670 million New Territories South regional police headquarters (RPH) and operational base at Tsuen Wan project was the last building project of the Police. In the light of this, Mr CHEUNG was of the view that the Police should identify savings from its \$3.2 billion Police Headquarters project at Wanchai and its \$670 million New Territories South RPH and operational base at Tsuen Wan project, as well as reducing the total capital cost of its Hong Kong Island RPH and Waterfront Police Station project estimated at \$1.5 billion and its Kowloon West RPH project, to construct the proposed project.

(Post-meeting note : According to the Administration, Mr Albert LAI, the then Director of Finance, Administration and Planning of HKPF said at the meeting of the Panel on Security held on 7 March 2002 that proposals for the other land regions would be submitted only if there were full justifications and economic benefits (paragraph 38 of the minutes of the meeting refers). In respect of the other projects mentioned in paragraph 25 above, viz : Hong Kong Island RPH and Waterfront Police Station project estimated at \$1.5 billion and Kowloon West RPH project, the Administration advised that they have never been submitted to the Finance Committee (FC) of the Legislative Council for funding approval.)

26. PAS for S reiterated the needs and justifications for constructing the proposed complex as set out in paragraphs 7 to 14 of the Administration's paper. Nevertheless, she agreed to check whether some savings could be identified from the Police's capital work projects under construction. PAS for S further said that the estimated \$2.49 million recurrent expenditure for the proposed complex would be met by internal savings identified from within the Police.

27. Mr CHEUNG Man-kwong said that the Administration should consider accommodating the MOWDIST HQs and the MNDIV at the new Police Headquarters at Wanchai, as the latter's facilities were over-provided.

28. In response, PAS for S said that there was no question of over-provision in the facilities of the new Police Headquarters at Wanchai as all Government capital work projects were governed by established planning standards and overseen by the Architectural Services Department (ASD) and the Government Property Administrator. Project Director, ASD supplemented that the standards and provisions of the new Police Headquarters at Wanchai were not over and above those of other Government complexes, such as the Queensway Government Offices, and the construction unit cost was lower than that in the private sector.

29. As to accommodating the MNDIV at the new Police Headquarters at Wanchai, PAS for S said that this was not practicable from an operational point of view. Given the considerable travelling time from Wanchai to the policing areas of MNDIV, operational personnel of MNDIV would not be able to arrive at the scene promptly in

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the event of a major operation or incident if MNDIV was housed at the new Police Headquarters at Wanchai. Moreover, the fact that the new Police Headquarters was located in the urban area would render it not suitable for putting in MNDIV's police launches/vessels maintenance workshops and facilities. PAS for S further said that it was also not desirable to house the MOWDIST HQs at the new Police Headquarters at Wanchai, as this would be detrimental to the day-to-day efficiency of the operational command, deployment, management and communications within the District. PAS for S pointed out that the main reason for relocating the MOWDIST HQs, currently at MEDIV, to a purpose-built complex on the existing site of MNDIV was because MNDIV was situated mid-way between MEDIV and MWDIV.

30. Miss Margaret NG said that if members had known about the proposed complex earlier, they might have different views on supporting the previous building projects of the Police. To enable members to make an informed decision as to whether the proposed project should be supported at the next meeting, Miss NG suggested and members agreed that the Administration should provide the following information -

- (a) Number and scope of works of the building projects of the Police under construction, and where, and if so, the amount of savings which could be achieved from these projects;
- (b) Number and scope of works of the building projects of the Police which would undergo or were undergoing a preliminary project feasibility study; and categorised as Categories C, B and A in the Government's Capital Works Programme; and
- (c) Number and scope of works of building project(s) of the Police which needed to seek funding from FC, via the Public Works Subcommittee, of LegCo, but did not come under (b) above.

Admin PAS for S agreed.

31. Noting that the existing MNDIV was a temporary accommodation built in 1983, Miss Margaret NG asked why the Administration waited this long to seek funding to demolish the present old single-storey ex-ferry terminal and construct a modern purpose-built Marine Police Base to accommodate the MNDIV.

32. PAS for S explained that accommodating the MNDIV in its existing temporary accommodation at Ma Liu Shui back in 1983 was intended to be an interim measure pending the construction of a purpose-built base. To this end, the project to construct a purpose-built base for the MNDIV was put in as Category B of the Government's capital works programme from 1983 to 1986 and again from 1989 and 1994. No record could be traced as to why the project was not included in Category B between 1987 and 1988. As to the reason why the project was not placed as Category B from 1994 until now, PAS for S explained that this was because there were other more urgent projects then. PAS for S further said that the reason why the

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Administration now decided to come forward to seek funding from LegCo despite the fact that the Government was running a huge deficit was because the existing building of the MNDIV was far below acceptable standards and was reaching the end of its economic life span. Moreover, not only was the age, nature and design of the building not able to facilitate the installation of modern technology in a cost-effective manner, the 387 officers attached to MNDIV were housed in a cramped accommodation far below their actual space entitlement. The Division fell short of standard office accommodation and was inadequate in supporting facilities due to space constraint. As an interim measure, shipping containers were used to alleviate the accommodation problems. Acting Director of Finance, Administration and Planning, HKPF supplemented that the Police had a large number of premises, including about 60 Police stations and their district and regional headquarters. The state of the existing buildings was inspected regularly and requirements for new buildings would be considered carefully. There was a continuing planning process.

33. Mr WONG Yung-kan said that he would not have any hesitation to support the proposed project if there was no fiscal problem. In his view, the Administration should have submitted the proposed project for LegCo's consideration earlier. Mr WONG then asked whether the construction of the new complex could be further delayed by, say, carrying out more repair and renovation works to the existing building, and whether there would be more projects similar to the proposed project under planning.

34. Project Director, ASD responded that to continue carrying out repair and renovation works to the existing building of MNDIV was not economical, having regard to the fact that the pace of dilapidation of the temporary structure was faster than the pace of normal maintenance activities and for the reasons given by PAS for S in paragraph 32 above. As to Mr WONG's second question, RC(M) HKPF said that the proposed project was the last building project for the Marine Police for the next 10 years.

35. The Chairman asked whether consideration could be given to expanding the existing building of MEDIV, thereby obviating the need to relocate the MOWDIST HQs to MNDIV, and this in turn would also obviate the need to construct a purpose-built complex to accommodate the MOWDIST HQs and the MNDIV.

36. PAS for S pointed out that this was not workable, as the building of MEDIV was designed and built to accommodate only a Division. At the request of the Chairman, PAS for S undertook to provide information on the building of MEDIV after the meeting.

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37. The Chairman further asked whether consideration could be given to relocating non-operational staff of the MOWDIST HQs, such as those responsible for community relations and administrative matters to Police Station in Sha Tin. PAS for S responded that at present MOWDIST HQs staff responsible for community relations and administrative matters for the whole District were housed at MEDIV and planned to be moved after the new complex was built. Nevertheless, she

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agreed to examine other options along the lines suggested by the Chairman to reduce the scope of the proposed project as far as practicable.

38. Mr CHEUNG Man-cheung was adamant that the Police should identify savings from its building projects, both approved and those planned to be submitted to LegCo for consideration, to construct the new complex. Mr CHEUNG pointed out that many village schools, also in a very dilapidated condition, had to make do with what they had.

39. Miss Margaret NG requested the Administration to provide a written response as to why the then Director of Finance, Administration and Planning of HKPF had told members that the \$670 million New Territories South RPH and operational base at Tsuen Wan project was the last building project of the Police, and the criteria adopted by the Police in determining which projects should be accorded priority for bidding of resources under the Government's annual Resource Allocation Programme. PAS for S agreed.

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40. In summing up, the Chairman said that the Administration should strive to explore other viable options to replace constructing the proposed project, in view of the rise in taxation over the next few years and the strong public sentiment that the Government had not done enough to curb public spending. Mr Howard YOUNG echoed views similar to that expressed by the Chairman.

41. There being no other business, the meeting ended at 4:05 pm.

Council Business Division 2
Legislative Council Secretariat
7 April 2003