

立法會
Legislative Council

Ref : CB2/PL/SE/1

LC Paper No. CB(2)945/05-06
(These minutes have been seen
by the Administration)

Panel on Security

**Minutes of meeting held on Tuesday, 6 December 2005
at 2:30 pm in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Daniel LAM Wai-keung, BBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon Howard YOUNG, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon CHIM Pui-chung

Members absent : Hon LAU Kong-wah, JP
Hon CHOY So-yuk, JP
Hon LEUNG Kwok-hung

Public Officers attending : Item III

Ms Manda CHAN
Principal Assistant Secretary for Security

Mr John HUNTER
Deputy Principal Government Counsel (Treaties and Law)

Ms Jane LEE
Assistant Secretary for Security

Item IV

Mr Michael W L WONG
Deputy Secretary for Security 3

Ms Linda K P SO
Principal Assistant Secretary for Security

Ms Anita H Y LI
Assistant Secretary for Security

Mr TSOI Hon-kuen
Assistant Director of Immigration (Personal Documentation)

Ms Helen W M CHAN
Assistant Director of Immigration (Visa and Policies)

Mr David K W YUEN
Departmental Secretary
Immigration Department

Item V

Miss S H CHEUNG
Deputy Secretary for Security 1

Miss Rosalind CHEUNG
Assistant Secretary for Security

Miss Janet WONG
Head, Ministerial Conference
Co-ordination Office
Trade and Industry Department

Mr Henrique KOO
Assistant Commissioner of Police (Operations)

Mr J P CHEUNG
Principal Transport Officer/Urban
Transport Department

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

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2) 5

Ms Alice CHEUNG
Legislative Assistant (2) 1

Action

I. Information papers issued since the last meeting
(LC Paper No. CB(2)427/05-06(01))

Members noted that a letter dated 8 November 2005 from the Joint Committee for the Abolition of Death Penalty to the Secretary for Security, which was copied to the Panel, had been issued since the last meeting.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)546/05-06(01) and (02))

2. Members agreed that the following items would be discussed at the next meeting to be held on 3 January 2006 at 2:30 pm -

- (a) Operation of the Long Term Prison Sentences Review Board;
- (b) Rules and directions for the questioning of suspects and the taking of statements : Caution Statement; and
- (c) Police cooperation on exchange of information in the detection of crime.

3. Members also agreed that a special meeting would be held on 24 January 2006 at 10:45 am to receive a briefing by the Commissioner of Police on the crime situation in 2005.

4. The Chairman informed members that the Administration had advised that the item “Policy on the admission of refugees” would not be ready for discussion in January 2006.

5. Members also agreed that the items “Hong Kong Special Administrative Region Identity Card Project” and “Guidelines in the Force Procedures Manual on the seizure of property” would be deleted from the list of outstanding items for discussion.

6. Regarding the monitoring of anti-terrorism measures by the Administration, Ms Margaret NG said that the Administration had informed the Panel of the latest

Action

development regarding the review of the suspicious transaction reporting requirements under section 12 of the United Nations (Anti-terrorism Measures) Ordinance, the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance. The Administration had also informed the Panel that a public consultation would be conducted on the proposals drawn up after the review. She suggested that the Administration should be requested to provide an update on the progress of the review, including the outcome of the consultation exercise. Members agreed.

III. Legislative proposal to implement the Convention on the Safety of United Nations and Associated Personnel
(LC Paper No. CB(2)546/05-06(03))

7. Principal Assistant Secretary for Security (PAS(S)) briefed members on the Administration's legislative proposals to implement the Convention on the Safety of United Nations (UN) and Associated Personnel.

8. Mr CHEUNG Man-kwong asked whether the legislative proposals would be applicable to the rendition of Hong Kong residents who committed the relevant crime in the Mainland and Mainlanders who committed such crime in Hong Kong.

9. PAS(S) responded that the extradition requirements under the Convention would be implemented by an order to be made in accordance with the Fugitive Offenders Ordinance (Cap. 503). Section 2 of the Ordinance stipulated that the arrangements under the Ordinance were not applicable to the Mainland. Therefore, the legislative proposals did not cover the rendition of Hong Kong residents who committed crime in the Mainland and Mainlanders who committed crime in Hong Kong. Such offences would have to be dealt with in accordance with the laws of the jurisdiction in which the crime was committed.

10. The Chairman asked whether the term "Chinese national" covered a person who was both a Taiwan resident and a Hong Kong permanent resident.

11. PAS(S) responded that according to Article 24 of the Basic Law (BL24) and Schedule 1 to the Immigration Ordinance (Cap. 115), persons who were both "Chinese nationals" and Hong Kong permanent residents should be –

- (a) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region (HKSAR);
- (b) Chinese citizens who had ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the HKSAR; and
- (c) Persons of Chinese nationality born outside Hong Kong of those

Action

residents referred to in paragraphs (a) and (b) above.

Adm

12. The Chairman said that a number of Hong Kong permanent residents were residing in Taiwan. He asked whether the legislative proposals would be applicable to such persons. He considered that if the legislative proposals were to be applicable to such persons, sufficient publicity should be launched. PAS(S) undertook to provide a written response on whether the legislative proposals would be applicable to Hong Kong permanent residents residing in Taiwan.

13. The Chairman expressed concern that the legislative proposals might not be applicable to stateless persons who acquired the right of abode (ROA) in Hong Kong under BL24(2)(6).

14. PAS(S) responded that Article 10(1)(b) of the Convention provided that each State Party should take such measures as might be necessary to establish its jurisdiction over the crimes set out in Article 9 of the Convention when the alleged offender was a national of that State. As Hong Kong did not have “nationals”, jurisdiction would be established in respect of permanent residents who were also Chinese nationals. She added that the requirement in Article 10(2)(a) of the Convention, which provided that a State Party might establish its jurisdiction over such crime when it was committed by a stateless person whose habitual residence was in that State, was not a mandatory one and had not been adopted by the Administration.

15. The Chairman suggested that the Administration should further consider establishing extra-territorial jurisdiction over stateless persons who acquired ROA in Hong Kong under BL24(2)(6), or by making the legislative proposals applicable to all Hong Kong permanent residents, regardless of whether they were Chinese nationals.

16. The Chairman asked whether Hong Kong had encountered difficulties in the trial of Hong Kong residents who had committed crime in another jurisdiction.

17. PAS(S) responded that as the crimes proscribed by the Convention were offences under existing local legislation, there should not be difficulties in the implementation of the legislative proposals.

18. The Chairman asked whether it would be more desirable from a policy point of view to extradite the offender to the jurisdiction where the crime was committed for trial. PAS(S) responded that it would depend on the place where evidence was mainly found, and whether a request for extradition was made by the jurisdiction concerned.

19. Mr WONG Yung-kan asked whether a Hong Kong permanent resident who was a UN personnel and committed murder in another jurisdiction would be extradited to Hong Kong for trial. He questioned whether such an arrangement would be fair, given that there was virtually no death sentence in Hong Kong but there

Action

might be death sentence in the jurisdiction concerned.

20. PAS(S) responded that the legislative proposals sought to ensure the safety and security of UN and associated personnel, but did not deal with crime committed by UN personnel. A Hong Kong permanent resident who was a UN personnel and committed murder in another jurisdiction would generally be tried in that jurisdiction, and Hong Kong would not request surrender of that person solely on the basis of his/her permanent residency status.

21. The Chairman asked how a Hong Kong permanent resident who possessed dual nationality, namely, Chinese nationality and another nationality, and committed crime in another jurisdiction would be dealt with under the legislative proposals. PAS(S) undertook to provide a written response.

Adm

IV. Revision of certain fees and charges for services not directly affecting people's livelihood

(LC Paper Nos. CB(2)2124/04-05(01), CB(2)2352/04-05 and CB(2)241/05-06(01))

22. Deputy Secretary for Security 3 (DS for S3) briefed members on the Administration's proposal to revise the fees and charges for services under the purview of the Security Bureau which did not directly affect people's livelihood or general business activities.

23. The Chairman said that an increase in the fees of travel documents might have an impact on the daily life of the general public. He asked whether the proposed increase in the fees of travel documents, especially the HKSAR Passport, could be deferred.

24. DS for S3 responded that a fee would be considered as not directly affecting people's livelihood or general business activities, if such fee would have one or more of the following characteristics –

- (a) the number of people or businesses affected by the revision was limited;
- (b) the fees were not related to services absolutely necessary in people's daily life;
- (c) the usage of the service might only be occasional or one-off; and
- (d) the actual monetary impact was not significant in comparison with other relevant costs, such as the cost for a trip outside Hong Kong.

25. DS for S3 informed members that the fee for a 32-page HKSAR Passport for persons 16 years of age or above, which was HK\$320, was relatively low in

Action

comparison with those for passports issued by other countries, the details of which were as follows –

<u>Country</u>	<u>Estimated Fee in HK\$</u>
Australia	\$987
Canada	\$650
Japan	over \$1,000
United Kingdom	
- 32 page passport	\$970
- 48 page passport	\$1,150
United States of America	\$755

26. DS for S3 said that if the fee for a service was not recovered to a full-cost level, such a service would in fact be subsidised by other members of the public who did not use the service. Delaying the fee increase might also result in a more substantial fee increase at a later time. He stressed that many fees had not been revised since 1997.

27. The Chairman asked when the fee for a HKSAR Passport was last increased. He also asked whether it was the Administration's original intention to recover the full cost of a HKSAR Passport.

28. DS for S3 responded that when the HKSAR Passport was launched in 1997, the fee was set at \$280, which was much lower than its full cost, so as to attract more applications. This would in turn result in wider use and increased overseas acceptance of the passport. The fee was revised to \$320 in 2000 and had remained unchanged thereafter. The Financial Secretary subsequently indicated in the 2004-05 Budget Speech that adjustment to government fees and charges would resume in line with the "user pays" principle.

29. The Chairman said that, after considering the explanation given by the Administration, and having regard to the fact that a user did not have to apply for a passport very frequently, the proposed increase in fee for a HKSAR Passport was acceptable.

30. Ms Margaret NG said that the charges for genetic tests were expensive. She asked about the cost effectiveness of such tests and the number of genetic tests conducted. She also asked whether sufficient staff had been deployed for conducting genetic tests.

31. DS for S3 said that between July 2001 and October 2005, there were about 10 600 cases where the applicants for the Certificate of Entitlement were required to undergo genetic test. Among these, genetic tests had been conducted in more than 7 900 cases. Genetic tests were still to be conducted in about 1 800 cases. There were also cases where the applicants concerned had not taken genetic tests although

Action

they had been requested to do so. There was no backlog in genetic tests arising from the shortage of manpower. He said that ROA claimants who encountered financial difficulties could apply for waiver of the genetic test charge. Assistant Director of Immigration (Visa and Policies) added that 630 applications for waiver of genetic test charge had been received by the end of November 2005. Of these, waiver had been granted in 536 cases and partial waiver had been granted in 16 cases.

V. Security arrangements for the Sixth Ministerial Conference of the World Trade Organization to be held in Hong Kong from 13 to 18 December 2005

(LC Paper Nos. CB(2)546/05-06(04) and (05))

32. Deputy Secretary for Security 1 (DS for S1) briefed members on the security arrangements for the Sixth Ministerial Conference of the World Trade Organization (WTO) to be held in Hong Kong from 13 to 18 December 2005. She informed members that one of the designated public activity areas was only located at less than 300 metres from the Hong Kong Convention and Exhibition Centre at its closest.

33. Members noted a leaflet entitled “Understanding the Hong Kong Ministerial Conference : 13 – 18 December 2005” provided by the Administration, which was tabled at the meeting.

(Post-meeting note : The leaflet tabled at the meeting was issued to members vide LC Paper No. CB(2)618/05-06 on 7 December 2005.)

34. Mr CHEUNG Man-kwong said that the Administration’s paper tended to be focused on public meetings and public processions during the conference period. He asked how the Administration would deal with terrorist attacks. Referring to paragraph 4 of the Administration’s paper, he also asked about the meaning of a “moderate” threat of terrorist attack.

35. DS for S1 said that there were three threat levels for terrorist attack and “moderate” was the middle level. Although there was no indication of the existence of any local terrorist group, the Administration would not rule out the possibility of attacks from external terrorist groups, given that Hong Kong was an international city. There were effective measures against the trafficking of firearms, biochemical and nuclear materials. There was legislation against the financing of terrorist activities and a sound immigration control system. Anti-terrorist measures had also been drawn up by the Police.

36. Assistant Commissioner of Police (Operations) (ACP(O)) added that there was no intelligence suggesting that Hong Kong would be the target of terrorist attacks. However, some delegates might be the targets of terrorist attacks. In this respect, the Police had been exchanging intelligence with the law enforcement agencies of other jurisdictions. Security facilities were constantly reviewed and inspected. Some

Action

Police officers had been sent overseas in the past to gain understanding of overseas experience and strategies adopted. Contingency plans had been drawn up by the Police.

37. Mr CHEUNG Man-kwong said that many terrorist attacks in other places had not been directed at high-security spots, but hotels and tourist spots. He asked whether measures had been drawn up against attacks at such places.

38. ACP(O) responded that the Police's work against terrorist activities was mainly intelligence-led and directed at combating the problem at source. The Police would step up security at high-risk facilities and suggest that hotels and bars should step up security for their premises. Mr CHEUNG Man-kwong considered that the Police's work against terrorist activities should not only be intelligence-led. The Police should step up security at high-risk locations.

39. The Chairman asked whether publicity on the precautionary measures that should be adopted by members of the public had been launched.

40. ACP(O) responded that numerous briefings had been held in recent months for banks, shops, restaurants and building management companies on the measures to be adopted. Briefings had also been held for District Councils.

41. Mr CHEUNG Man-kwong asked whether the Administration had maintained a "black list" of visitors to Hong Kong so that control could be exercised at the immigration control points.

42. DS for S1 responded that each application for entry into Hong Kong would be assessed having regard to the circumstances of the case concerned.

43. Mr WONG Yung-kan said that there were previous reports that some 6 000 Police officers would be deployed for MC6-related duties. However, it was reported recently that about 9 000 Police officers would be deployed. He asked whether there was any intelligence leading to such an increase.

44. ACP(O) responded that the Police had never stated that 6 000 Police officers would be deployed. The figure of 9,000 Police officers was mentioned by the Commissioner of Police. ACP(O) said that since 18 months ago, some Police officers had been sent overseas, such as in the international conferences held recently in Scotland and Korea, to gain understanding of overseas experience and strategies adopted.

45. Mr WONG Yung-kan said that one of the designated public activity areas was only at a distance of 300 metres from the conference venue. He asked how the Police would deal with attempts of demonstrators to break through the Police cordon by disruptive or violent means. He asked whether the Administration would consider using water cannons or tear gas to disperse demonstrators who launched such

Action

attacks.

46. ACP(O) responded that the Police had maintained dialogue with both local and overseas non-government organisations (NGOs). They had indicated intention to conduct public meetings or public processions, and had undertaken to hold such activities in a peaceful manner. Where there were attempts to break through the Police cordon by disruptive or violent means, appropriate measures, such as the deployment of shield array, would be adopted by the Police.

47. ACP(O) said that the Police had no plan to use water cannons, which might cause harm to demonstrators. The use of tear gas would be considered when circumstances developed into a riot-like situation.

48. Ms Margaret NG asked how the Administration would deal with cases of serious traffic chaos or confusion while maintaining security at the same time. She asked whether the Administration had drawn up plans to deal with such a situation and resolve the problem within a certain period of time. She also asked whether there was adequate coordination among relevant government departments.

49. DS for S1 said that different contingency plans had been drawn up and updated where necessary. Should any problem arise, the Administration would seek to contain the problem and bring the situation back to normal as soon as practicable.

50. Principal Transport Officer/Urban, Transport Department said that the Transport Department had suggested that members of the public should pay attention to news disseminated through radio stations. Motorists were also recommended to use public transport and railway services during the conference period. Updated traffic news would be disseminated at half-hourly intervals. The Emergency Transport Coordination Centre would be put into 24-hour operation from 10 December 2005 onwards. To help diverting traffic from the Cross-Harbour Tunnel during the conference period, the Western Harbour Crossing and Eastern Harbour Crossing had agreed to provide concessions of 14% to 25% on tunnel tolls from 13 to 18 December 2005.

51. Head, Ministerial Conference Co-ordination Office (H(MCO)) said that adequate coordination was maintained among the government departments concerned. A number of meetings had been held among the Hospital Authority, the Fire Services Department and the Police for drawing up coordinated plans on the conveyance of casualties. She stressed that much preventive work had been conducted by the Administration. Participants of the opening ceremony had been arranged to arrive at the conference venue early and in different batches.

52. The Chairman said that there were reports that some members of an ambulancemen union intended to take industrial actions during the conference period to express their opposition to the Administration's plan to take disciplinary actions against the chairman of the union. He asked whether the issue had been resolved.

Action

53. DS for S1 responded that the Fire Services Department was liaising with the ambulancemen union concerned on the matter. The Administration hoped that the ambulancemen union would have regard to the interests of the public at large when considering whether to take industrial actions.

54. The Chairman said that it was important to maintain adequate emergency ambulance service during the conference period. He hoped that the Administration would have regard to the interests of the public at large when deciding whether disciplinary actions should be taken. DS for S1 noted the views of the Chairman. She said that the Administration was also working in the same direction.

55. The Chairman said that under the Public Order Ordinance, it would not be necessary to notify the Police of a public procession consisting of less than 30 persons. He asked whether the Administration would allow or disperse a public procession consisting of less than 30 persons in the vicinity of the closed area, such as along Harbour Road.

56. ACP(O) responded that as he mentioned Harbour Road was expected to have a high traffic volume, the Police would request the public procession to move to the designated public activity areas. Where the number of participants was very small and caused no inconvenience to other road users, the Police would allow the public procession to be held as far as practicable.

57. The Chairman said that there were reports that some Police officers from other jurisdictions would come to Hong Kong during the conference period. He asked about the number of such Police officers and whether they would be involved in any task.

58. ACP(O) responded that the law enforcement officers of about 10 countries had come to Hong Kong to observe the Police's operations, but they would not be involved in any law enforcement during the conference period.

59. The Chairman asked whether possible scenarios had been classified into different levels and when shield array and tear gas would be adopted.

60. ACP(O) responded that there was not a classification of possible scenarios. Whether there was a need for the use of force and the equipment that would be deployed would depend on the circumstances. He stressed that the Police would act in accordance with the law and their internal guidelines on the use of force.

61. The Chairman asked about the distribution of overseas demonstrators who had indicated intention to participate in public meetings or public processions during the conference period.

Action

62. ACP(O) responded that according to latest intelligence, about 10 000 persons had indicated their intention to participate in public meetings or public processions during the conference period. About 7 000 of these persons would be overseas demonstrators, among whom about 80% would come from Asian countries such as Korea, Indonesia and the Philippines.

63. Referring to paragraph 6 of the Administration's paper, the Chairman asked about the number of overseas demonstrators who could be contacted through the Hong Kong People's Alliance on World Trade Organization (HKPAWTO).

64. ACP(O) responded that the Police had, through HKPAWTO, communicated with the representatives of about 50 NGOs, which represented over 6 000 of the 7 000 overseas demonstrators.

65. The Deputy Chairman said that there were reports that some overseas demonstrators would be staying on the outlying islands. He expressed concern whether there would be adequate Police manpower on the outlying islands for dealing with unexpected situations. He added that sufficient Police manpower should especially be deployed on Lamma Island, where there were only two to three Police officers on duty.

66. ACP(O) responded that some overseas demonstrators would be staying on Lamma Island and Cheung Chau. He assured members that sufficient Police manpower would be maintained in various Police districts. To maintain adequate manpower, the Police had imposed a leave restriction from 20 November to 20 December 2005. The normal shift of a Police officer had been temporarily extended from 8.75 hours to 12 hours. Non-urgent assignments had been deferred until after the conference period. He added that the Police had been maintaining dialogue with NGOs on various matters, such as the arrangements for their travel from the outlying islands to urban areas.

67. Mr WONG Yung-kan said that there were reports that some demonstrators from the Philippines planned to rent some boats to stage a demonstration on the sea and some demonstrators might jump into the sea. He asked how the Police would deal with such a situation.

68. ACP(O) responded that the Police were aware that the demonstrators had rented two boats for demonstration on the sea. While the Police hoped that the demonstration would be held in a peaceful manner, the Police and the Marine Department would be prepared for dealing with any unexpected incidents.

69. H(MCO) said that the Administration would try its best to facilitate the conference to be held smoothly and keep inconvenience to members of the public to a minimum. She hoped that members of the public would be accommodating towards the special traffic and transport arrangements.

Action

70. The Chairman wished the Administration every success in maintaining security for the conference.

71. The meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
20 January 2006