

For information

4 July 2006

LEGISLATIVE COUNCIL PANEL ON SECURITY

Security Arrangements for the Sixth Ministerial Conference of the World Trade Organisation held in Hong Kong from 13 to 18 December 2005

Purpose

This paper encloses the Police After Action Review Report on the security arrangements for the Sixth Ministerial Conference (MC6) of the World Trade Organisation (WTO) held in Hong Kong from 13 to 18 December 2005. It also provides responses to the issues raised by Members at the Panel meeting on 7 February 2006.

Background

2. MC6 was held at the Hong Kong Convention and Exhibition Centre from 13 to 18 December 2005 as scheduled. The Panel on Commerce and Industry was already briefed on the logistics aspects of MC6 at its meeting on 17 January 2006. On 7 February 2006, the Panel on Security was also given an initial briefing on the security arrangements for the MC6.

3. This paper gives an account of the content of the Police After Action Review Report (General Security Arrangements) (the Review Report) for Members' reference. The Review Report is attached at **Annex A**.

Scope and Methodology of the After Action Review

4. As pointed out at the Panel meeting on 7 February 2006, the Police would conduct a review after every major operation and the MC6

is no exception. After MC6, the Police conducted a comprehensive review of the whole operation during the Conference period. The review is divided into two parts. The first part, which deals with policing strategy, tactics and deployments, has to be kept confidential. The second part pertains to the general security arrangements and issues of public concern. The second part of the review report, which is attached at Annex A, covers eight areas, namely (1) police preparations and arrangements for demonstration activities; (2) use of force; (3) arrest and removal of arrested persons; (4) detention of arrested persons; (5) release of arrested persons; (6) other issues of public concern; (7) lessons learnt; and (8) conclusion.

5. The Police after action review was coordinated by a Chief Superintendent who had not participated in any policing work of the Conference as she was on overseas training followed by leave during the preparation and conduct of the Conference. This ensures the impartiality of the Review Report. The review is comprehensive. Questionnaires were sent to Formation Commanders who collected information and views from their officers who had taken part in the MC6 operation. Relevant documentary records were also perused and officers responsible for the respective duties would be enquired if necessary. Information was also collected through the internet and contacts with the overseas law enforcement agencies.

Results of the After Action Review

Arrangements for Demonstration Activities

6. During the MC6 period, the Police facilitated the holding of 105 public meetings/processions, including six which had not provided prior notification to the Police as required by the law. To facilitate the conduct of peaceful demonstrations, even though no prior notification was given by some of the demonstrations as legally required, the Police facilitated their conduct where there were no serious threats of public disorder or violence.

7. The Police and the Ministerial Conference Coordination Office

were committed to maintaining liaison with the non-governmental organizations (NGOs) from the outset. The Police set up a liaison unit to maintain close contact with 59 local and overseas NGOs. Prior to MC6, the Police had made 289 contacts with the NGOs to assist them to hold activities and to ensure effective communication among the parties involved. Any special requests from the organizations concerned were expeditiously referred to the responsible departments for follow up.

8. The Police discussed at great length with the organizers on arrangements for the three large-scale processions held on 11, 13 and 18 December 2005. Issues discussed included the number of participants, the procession routes, the assembly venues, the location of the designated public activity areas, and other ancillary issues. After numerous meetings and site visits, a compromise on various arrangements was finally reached. Then the Police immediately issued letters of no objection concerning the three processions.

9. The Police also processed notifications submitted by other organizations proposing to host public order events and processions during the MC6 period. For cases which were smaller in scale involving a small number of participants, the Police held discussions with the organizers and issued letters of no objection without delay, and in the fastest case, the letter of no objection was issued on the same day upon receipt of notification. It showed that the Police had throughout taken a proactive role in contacting the organizations concerned with a view to assisting them to prepare for the public order events they organized as soon as possible. More details in this regard are set out in Part 1 of the Review Report.

Use of Force

10. The use of force by the Police during the Conference period is discussed in Part 2 of the Review Report. In handling the violent confrontations with some of the demonstrators, the Police had been upholding the principles of “exercising maximum restraint” and “using minimum force”. The force used by the Police was defensive and was used in response to the escalation of violence by those involved. It fully conformed with the United Nations’ basic principles on the use of force

by law enforcement officials and the Police internal guidelines.

11. The Police had all along deployed negotiators to liaise with the organizers of demonstrations throughout the preparatory stage and the Conference period with a view to rendering assistance. Subsequently, when some of the demonstrators charged at the Police cordon and resorted to violence, the Police still tried to rely on the shield tactics to fend off the attack as far as possible. Only when some demonstrators escalated their violence did the Police have to respond to the prevailing circumstances and stop further attacks by using a higher degree of force such as OC foam and Police batons. In the latter part of the Conference period, some persons attacked the Police cordon on a massive scale and used potentially fatal weapons like long wooden poles and metal bars. When the use of OC foam and batons failed to stop these persons effectively, the Police had to escalate the degree of force used which was limited to fire hoses, CS grenades and CS spray. Only when individual demonstrators attacked Police officers with wooden poles causing them serious injury did the Police resort to a limited use of super sock rounds to hold them back and prevent more officers from being injured. (In all incidents of the Police using force, the Police gave prior warnings where circumstances permitted.)

12. The Police had investigated into the justifications and the propriety of the use of force after each and every incident. All investigation results were reviewed by a Chief Superintendent and vetted by an Assistant Commissioner of Police who would decide whether further investigation was required. The investigation results concluded that all incidents of the Police use of force during the MC6 period were justified and the degree of force used was appropriate. The Magistrate at the trial for the case relating to MC6 also praised the Police for their great restraint in handling the disorder. He said that in the face of violence, the Police did not retaliate with violence.

Arrest Action

13. Although some persons charged at the Police cordons on 13, 14 and 16 December resulting in Police injuries, the Police exercised restraint and did not take any arrest action. Instead negotiators were

deployed to talk to the demonstration organizers to render assistance. In fact, the Police had throughout been committed to safeguarding the right to freedom of expression and holding peaceful public order events of the persons concerned. Regrettably, some persons charged at the Police cordon on a massive scale on 17 December and launched violent attacks against the Police officers, resulting in numerous injuries and bringing the traffic in the Wan Chai area to a complete standstill. This not only violated the laws of Hong Kong, but also went far beyond the acceptable realms of a peaceful demonstration. The Police had no choice but to take arrest action.

14. Parts 2 and 3 of the Review Report elaborated on the justifications and process of the arrest of over 1 000 people by the Police on 18 December. Although special requests were made during the arrests and some arrested persons refused to cooperate, the Police accommodated as far as possible. Arrests in hospitals were made only after the completion of the arrested persons' medical treatment. It must be emphasised that the arrest action was based on the reasonable belief that those involved had violated the laws of Hong Kong. The arrest action, which was taken by the Police after seeking advice from the Department of Justice, was in discharge of their statutory duty to maintain law and order and to safeguard life and property. The arrest action was never aimed to prevent the arrested persons from participating in processions as claimed by some NGOs.

Detention

General Arrangements

15. For details about detention, please refer to Part 4 of the Review Report. It should be pointed out that the arrest of over 1 000 people on 18 December was the biggest single arrest action ever conducted by the Police. Despite prior preparations, the need to handle such a large number of arrested persons within a short period of time was a great challenge to the Police's detention facilities, interpreters, transport vehicles and other supporting facilities such as arrangements for food and toilet. Moreover, most of the arrested persons did not speak Chinese or English and some refused to cooperate with the Police. The Police had

tried their best to safeguard the fundamental rights of the arrested persons in informing them of the offences they had committed at the scene of arrest. Although the shortage of interpreters had prevented the Police from explaining individually to each arrested person at the Detained Persons Handling Area (DPHA), the Police adopted appropriate measures to explain their rights to them collectively. A dedicated officer was also sent to visit all detention facilities later to inform them again of the offences for which they were arrested and their rights.

16. Besides, the Police were mindful of the need of arrested persons in relation to food, drinking water, blankets and using toilets. Any arrested person requesting medical treatment would either be treated by the Auxiliary Medical Service or be sent to hospital. Furthermore, the Police acceded to the requests of the arrested persons to make outside contacts, and arrangements were made for them to make phone calls and send emails.

17. As regards the detention arrangements, there were isolated cases of over-crowdedness in the detention facilities due to the large number of arrested persons. However, the Police had made every effort to reduce the number of persons detained in each cell. For those arrested persons against whom the investigations confirmed there was insufficient evidence for prosecution, they were released as soon as practicable. In this regard, all female arrested persons were released starting from 9:20 pm on 18 December. As for the male arrested persons, except for the 14 being prosecuted, the remaining were released starting from 7:00 pm on 19 December.

Search

18. According to Police internal guidelines, the Duty Officer is to search a detained person or authorise the search, prior to securing him in a temporary holding area or cell block to ensure that the detained person does not escape; assist others to escape; injure himself or others; destroy or dispose of evidence; and commit further crime. Any search involving the removal of clothing next to the skin, which may result in embarrassment, is to be conducted in an area away from public view in the Police station and upon the direction of an officer of or above the rank

of Sergeant. As far as MC6 is concerned, Police officers conducted a frisk search on the majority of the arrested persons; only six male arrested persons were searched with the removal of their clothing worn next to the skin. These searches were fully justified and conducted away from public view in the Police station in accordance with Police guidelines.

Meeting Lawyers and Consulate Staff

19. After the arrest action on 18 December, some lawyers visited the detention facilities and requested to interview the arrested persons. According to Police internal guidelines, lawyers will only be allowed to see the arrested persons under the latter's request or with the consent of the arrested persons. In case the request for a legal interview was not made by the arrested person, it is a normal Police practice to require the lawyer concerned to name the arrested person to be interviewed or the third party who had retained him. During the MC6 period, although many of the lawyers could not provide the names of their clients and the Police could not ascertain whether they were retained by a third party to represent the arrested persons, most Police officers exercised flexibility and allowed the lawyers to see the arrested persons after confirming their identity. Besides, arrangements were made for 7 staff members of the South Korean Consulate, 1 staff member of the US Consulate and 1 staff member of the Japanese Consulate to meet the arrested persons.

Role of the Department of Justice

20. Counsel from the Department of Justice were involved in and attended many of the preparatory meetings for MC6, and provided input and advice when appropriate or when required. The role of the Department of Justice during MC6 was to provide legal advice on any matter in respect of which the Police or any other Government organisation required advice, irrespective of whether the issue was criminal or civil in nature, and in the event of the initiation of criminal charge or the commencement of civil proceedings against any party, arising out of MC6, to provide a prosecutor or counsel. Teams of Government Counsel were rostered 'around the clock', to provide urgent advice on an *ad hoc* basis, regardless of whether the request was made by

telephone, face to face, or in writing.

21. Article 63 of the Basic Law stipulates that the Department of Justice shall control criminal prosecutions, free from any interference. Prosecutions arising from MC6, like any other prosecutions, were initiated based on prevailing prosecution guidelines, which require sufficient evidence to provide a reasonable prospect of conviction.

Lessons Learnt

22. MC6 and its policing were massive in scale and presented a huge challenge to the Police. To ensure the smooth conduct of the Conference and the public order events, the Police's preparatory work began as early as the beginning of 2003. Taking into account that anti-globalisation organizations frequently hold violent protests against major international conferences, in addition to arranging adequate manpower for the security of MC6 and policing the large number of public order events, the Police also made full preparation for logistics and other supporting services against possible contingencies. In addition, the Police maintained close contact with NGOs to assist them to hold demonstrations and other activities and to ensure effective communication among the parties involved. The Police held a series of briefings for frontline officers to enhance their awareness in dealing with public order events. Briefings were also held for people and organizations of different sectors to enhance their awareness of matters concerning the MC6. This preparatory work ensured the Conference was conducted without interference and the majority of the public order events were held smoothly. During the Conference period, 8 disorderly or violent incidents occurred resulting in the arrest of over 1 000 people. However, the Police exercised flexibility and upheld the principles of "providing the greatest convenience for all public activities peacefully held", "exercising maximum restraint" and "using minimum force" in facilitating public order events and dealing with violent incidents. Although it was a formidable challenge for the Police to handle a large number of arrested persons, the Police had tried their best to safeguard the fundamental rights of the arrested persons.

23. On the other hand, although the Police began their preparatory work as early as 2003, we believe that they could improve in the following areas -

- (a) Interpretation service: Despite all the efforts made by the Police (such as attempts made to recruit court interpreters, a local Korean-speaking lecturer and tourist guides as interpreters and assistance sought from the Korean Consulate), only a limited number of Korean interpreters were recruited. To reduce the demand for interpreters for similar events in future, the Police will consider printing the requisite documents and the gists of communication with concerned parties in different languages in advance.
- (b) Handling of arrested persons and their relevant information: In future, the Police will carefully consider the number of Detained Persons Handling Area that need to be set up to speed up the processing of arrested persons. The Police will also try to arrange reserve vehicles to be parked in the vicinity of the operation area to facilitate the prompt removal of arrested persons. Moreover, the Police will consider setting up a central contact point to facilitate enquiries (including those from lawyers) about the information and whereabouts of an arrested person.
- (c) Supporting service (including arrangements for meals, toilets, blankets, etc): In future similar operations, the Police will consider enhancing supporting services for the arrested persons in accordance with circumstantial needs, such as providing warm food, blankets and mobile toilets.
- (d) Evidence gathering: In future similar events, the Police will strengthen their capability in collecting evidence. Besides, the Police recognise that face-to-face confrontation due to insufficient actors is not a

satisfactory arrangement for identifying suspects, and will avoid this arrangement as far as possible unless there is no other alternative.

24. While the review has identified some room for improvement in some areas, the Police operation is considered very successful as a whole. In his judgement, the Magistrate of the trial for the case relating to MC6 praised Police officers many times for their devotion to duty and measured response to disorder. Even though the persons involved continued to batter the Police cordon, the Police still maintained their unity and upheld their discipline to try their best to discharge their duty. They acted in a very tolerant manner and did not retaliate with violence in the face of violence. He commended the officers for their outstanding performance and courage in tackling the anti-WTO demonstrations and the radical actions of some demonstrators.

25. The Police have gained valuable experience from the operation in many aspects. This will enhance the effective execution of similar Police operations in the future.

Response to Members' Queries

26. At the meeting on 7 February 2006, Members requested the Administration to provide information on some issues. The information is now set out at **Annex B** for Members' reference.

**Security Bureau
Hong Kong Police Force
Department of Justice
June 2006**

Annex A

Hong Kong Ministerial Conference of the World Trade Organisation

13 to 18 December 2005

Police After Action Review Report

(General Security Arrangements)



Hong Kong Police Force

June 2006

	Content	Paragraph
	Introduction	
	Hong Kong Ministerial Conference of the World Trade Organisation (WTO MC6)	1
	Police After Action Review	2
Part I	Police Preparations of and Arrangements for Demonstration Activities	
	- Previous WTO MCs	3
	- Other Anti-Globalisation Protests Involving Violence	4
	- Preparation for the WTO Conference in Hong Kong	5-6
	- Role of the Department of Justice	7
	- Interpreters Arrangements	
	Recruitment of Interpreters	8-9
	Deployment of Interpreters	10
	Detention of Arrested Persons	
	- Vehicles for the Transport of Arrested Persons	11
	- HKMC Escort Group	12
	- Detention Facilities for Arrested Persons	13-15
	- Operations of Detained Persons Handling Area (DPHA)	16-18
	- Police Enquiry Unit	19
	Setting up of a Closed Area	20
	Facilitation of Demonstrations	21-22
	- Liaison with NGOs prior to Demonstrations	23-27
	- Information Gathering	28-29
	- Liaison with NGOs during Demonstrations	30-35
Part II	Use of Force	36
	- Principles on the Use of Force	37-42
	- Use of OC Foam (Oleoresin Capsicum)	43
	- Use of CS Grenade	44
	- Use of Water Jet Backpack	45

	- Use of Super Sock Rounds	46
	- Use of Force by the Police During the MC6 Period	47-79
	- Conclusion	80-83
	- Police Injuries	84
Part III	Arrest and Removal of Arrested Persons	
	- The Incident at Gloucester Road in Wan Chai between 17 th and 18 th December	85
	Containment Stage	86
	Filtering Stage	87
	Negotiation Stage	88-89
	- Arrest Action	90
	Arrest Action in the Detention Area at Gloucester Road	91-92
	Arrest Action in Hospitals	93-97
	Arrest Action in Victoria Park	98
	- Removal of Detained Persons	99-101
Part IV	Detention of Arrested Persons	102
	- Operation of the DPHA	103-115
	- Transit Centres for Arrested Persons	116
	Transit Centre in Kai Tak Operational Base	117
	Transit Centre in the Auxiliary Police Headquarters	118-119
	- Temporary Detention Centre (TDC)	120-130
	- Other Police Detention Facilities	131-139
	- Conclusion	140
Part V	Release of Arrested Persons	141-145
	- Identification Parade	146-149
	- Other Investigations	150-153
Part VI	Other Issues of Public Concern	154-157
	- Use of Force	158-160
	- Arrest Action	161-163
	- Detention	164-168

	- Interview with Lawyers	169-170
	- Search	171
	- Assault Complaints	172-173
Part VII	Lessons Learnt	174-175
	- Interpretation Service	176-178
	- Handling of Arrested Persons	179-180
	- Collation of Detention Locations	181-185
	- Vehicle Deployment	186-187
	- Supporting Service (Including Arrangements for Meals, Toilets, Blankets, etc)	188
	- Evidence Gathering	189-191
Part VIII	Conclusion	192-198

Abbreviation List

CAPO	Complaints Against Police Office
CIP	Chief Inspector of Police
DoJ	Department of Justice
DPAA	Designated Public Activity Area
DPHA	Detained Persons Handling Area
FSD	Fire Services Department
HKCEC	Hong Kong Convention and Exhibition Centre
HKPA	Hong Kong People's Alliance on WTO
HQCCC	Headquarters Command and Control Centre
IPCC	Independent Police Complaints Council
MCO	MC6 Coordination Office
NGO	Non-Government Organisation
PC	Police Constable
PCWA	Public Cargo Working Area
PEU	Police Enquiry Unit
PGO	Police General Orders
PTU	Police Tactical Unit
SP	Superintendent of Police
TDC	Temporary Detention Centre
TID	Trade and Industry Department
WTO	World Trade Organisation
WTO MC6	Hong Kong Ministerial Conference of the World Trade Organisation

**The Sixth Ministerial Conference
of the World Trade Organisation
held in Hong Kong from 13 to 18 December 2005**

Police After Action Review Report (General Security Arrangements)

Introduction

**Hong Kong Ministerial Conference of the World Trade Organisation
(WTO MC6)**

The WTO MC6 was held in the Hong Kong Convention and Exhibition Centre (HKCEC) from 13 to 18 December 2005. During the Conference, 105 demonstrations were held, including six of which prior notification was not given to the Police as required by the law. To facilitate the conduct of peaceful demonstrations, even though no prior notification was given in some of the demonstrations as legally required, the Police facilitated their conduct where there were no serious threats of public disorder or violence. A total of eight incidents of public disorder emanating from demonstrations were reported; five took place near the designated public activity area (DPAA) at Hung Hing Road, two at the South Korean and US consular premises, and the last major confrontation took place in Wan Chai North area.

Police After Action Review

2. The Hong Kong Police Force conducts reviews after all major Police operations and there is no exception for the MC6 Operation. The Police had conducted a comprehensive review of the Police operation

during the MC6 period. Apart from scrutinizing the relevant records, enquiry was made with formation commanders and staff participating in the operation. This report discusses in detail the review results in the following eight parts.

- (1) Police preparations and arrangements for demonstration activities
- (2) Use of force
- (3) Arrest and removal of arrested persons
- (4) Detention of arrested persons
- (5) Release of arrested persons
- (6) Other issues of public concern
- (7) Lessons learnt
- (8) Conclusion

The review results are detailed below.

Part I – Police Preparations and Arrangements for Demonstration Activities

Previous WTO MCs

3. Of the five previous WTO MCs, two did not witness any violent demonstrations, i.e. the first Ministerial Conference held in Singapore in 1996 and the fourth Ministerial Conference held in Doha in 2001. Violence broke out in the second Ministerial Conference held in Geneva in 1998 and the fifth Ministerial Conference held in Cancún in 2003, but no one was arrested. However, in 2003, a Korean farmer committed suicide in his protest against the WTO. The most violent outbreak took

place in the third Ministerial Conference held in Seattle in 1999 when radical demonstrators seriously disrupted the progress of the Conference. Eventually, 631 persons were arrested with 26 of them charged with felonies. The prosecution results were not known.

Other Anti-Globalisation Protests Involving Violence

4. In recent years, indications are that anti-globalisation organisations frequently hold violent protests against major international conferences. Such include the following three incidents:

- (1) In the World Bank - International Monetary Fund Forum on Supporting Comprehensive and Country-led Poverty Reduction Strategies held in Washington, D.C. in April 2000, 1 300 persons were arrested, although the number of prosecutions and results were not known.
- (2) In the Annual Meeting of the International Monetary Fund held in Prague in September 2000, over 900 persons were arrested, including 386 foreigners. 25 of them (including 4 females) were charged with offences which included assaulting a public official, disorderly conduct and damaging of property. The prosecution results were not known.
- (3) In the G8 Summit held in Gleneagles, Scotland in 2005, 355 persons were arrested. At least 179 of them were prosecuted, including 25 convictions up to May 2006.

Preparation for the WTO Conference in Hong Kong

5. As early as the beginning of 2003, with a view to gaining experience, Police officers were sent overseas to observe the preparation and conduct of major international conferences, including the WTO MC5 and the Asia-Pacific Economic Cooperation Conference held in South Korea in November 2005. The Trade and Industry Department (TID) was responsible for coordinating actions of all government departments involved in organising the MC6 in Hong Kong. The Police seconded two officers to the WTO Sixth Ministerial Conference Coordination Office (MCO) under the TID for the preparatory work. In preparation for the WTO MC6, the Police established a three-tier planning mechanism: the Force Steering Committee, chaired by the Director of Operations, the Police Headquarters Planning & Coordination Team, chaired by the Assistant Commissioner of Police, Operations and nine working groups, each chaired by either a Chief Superintendent or a Senior Superintendent. The nine working groups were responsible for the following areas:

- (1) security
- (2) public order
- (3) command and control
- (4) logistics
- (5) manpower and procurement
- (6) tactics and training
- (7) public relations and publicity
- (8) traffic management
- (9) information technology and communications

In addition to being responsible for arranging adequate manpower for the security of the MC6 and policing the large number of public order events, the nine working groups also made full preparation for logistics and other supporting services against possible contingencies.

6. The Police held a series of internal briefings to enhance officers' awareness on matters concerning the MC6 and the knowledge of front-line officers in dealing with public order events. Training and exercises were conducted for officers of various levels before the Conference to deal with different contingencies. Between February and December 2005, the MCO, together with other government departments including the Police, held a total of 80 briefings for people and organisations of different sectors. They included:

- (1) District Councils (25 briefings)
- (2) District Fight Crime Committees (16 briefings)
- (3) Buildings, shops and schools etc concerned (11 briefings)
- (4) Public utilities and facilities including telecommunications, gas, electricity and gasoline (3 briefings)
- (5) Public transport and related infrastructures including rail, bus, ferry, tunnels, bridges and port (3 briefings)
- (6) Tourist, catering and hotel industries (7 briefings)
- (7) Commercial, financial and banking sectors (4 briefings)
- (8) Government departments and officials (11 briefings)

The MCO also maintained close contacts with Non-Government Organisations (NGO).

Role of the Department of Justice

7. Counsel from the Department of Justice were involved in and attended many of the preparatory meetings for MC6, and provided input and advice when appropriate or when required. The role of the Department of Justice during MC6, was to provide legal advice on any matter in respect of which the Police or any other Government organisation required advice, irrespective of whether the issue was criminal or civil in nature, and in the event of the initiation of criminal charge or the commencement of civil proceedings against any party, arising out of MC6, to provide a prosecutor or counsel. Teams of Government Counsel were rostered ‘around the clock’, to provide urgent advice on an *ad hoc* basis, regardless of whether the request was made by telephone, face to face, or in writing.

Interpreters Arrangements

Recruitment of Interpreters

8. Since the demonstrators might come from different countries, the Logistics Working Group attempted to recruit interpreters of different languages. Apart from recruitment inside the Police Force, the Group also took the initiative to contact interpreters on the court interpreters’ list to provide interpretation service. For the recruitment of Korean-speaking interpreters, the Group contacted a Korean lecturer of a local university and sought the lecturer’s assistance in recruiting Korean interpreters. Moreover, through the Hong Kong Tourism Board, the Force also contacted a number of tourist guides who could speak the language with a view to recruiting them as interpreters. However, all of

these people were unable to confirm before the Conference whether they would be available to provide the service during the Conference period.

9. In view of the unsatisfactory recruitment, the Police contacted the Efficiency Unit for assistance in June 2005. The Efficiency Unit took up the matter and finally recruited a total of 80 interpreters, including 32 Korean-speaking interpreters, to provide interpretation service for all government departments and relevant public organisations (including the Hospital Authority, Police Force, Immigration Department, Customs and Excise Department, and Correctional Services Department). The Force was also able to recruit 18 Police officers who could speak foreign languages other than English, including two Police constables who could speak Korean. To facilitate deployment, all interpreters were placed under the command of the Headquarters Command and Control Centre (HQCCC). Interpreters were split into three shifts of duty, and placed on standby in the Caine House next to the Police Headquarters. Owing to the personal engagements of individual interpreters, the number of interpreters who could perform duty each day varied.

Deployment of Interpreters

10. The deployment of interpreters was based on operational needs. On 17 December 2005, nine Korean interpreters were on morning and afternoon shifts respectively and three were on night shift. Of the nine Korean interpreters who started the morning shift at 8 am, six worked continuously for 16 hours until midnight. The remaining three worked continuously for 10 hours until 6 pm. The nine Korean interpreters on the afternoon shift started duty at 4 pm. Four of them worked continuously for 37 hours whereas the remaining five worked

continuously from 16 to 19 hours. The three Korean interpreters on the night shift started duty from the midnight of 17 December. One of them worked continuously for 36 hours until noon of 19 December. The other two worked continuously for 9 and 12 hours respectively. In the morning of 18 December, due to the severe shortage of Korean interpreters, the MCO urgently arranged 13 voluntary interpreters to provide interpretation service.

Detention of Arrested Persons

Vehicles for the Transport of Arrested Persons

11. In view of the disturbances in the previous WTO Conferences held overseas which resulted in massive arrests, the Police had a contingency plan in place to handle such situation, which included the reservation of vehicles for the transport of arrested persons if so required. Six government vehicles (with a total capacity of 213 persons) were deployed for such purpose. Thirty other government vehicles (with a total capacity of 784 persons) were deployed as reserves. The Police also contracted a private coach company to provide coach service if the need arose. On 18 December 2005, the coach company provided 13 coaches (with a total capacity of 728 persons) for transporting arrested persons. From 18 to 19 December, a total of 49 vehicles (with a total capacity of 1725 persons) were deployed.

HKMC Escort Group

12. A HKMC Escort Group comprising 261 Police officers was set up under the Manpower and Procurement Working Group to escort arrested

persons. The team was under the command of a Superintendent (SP) with the assistance of two Chief Inspectors (CIP). There were altogether six escort platoons, each with 43 members. All members had received training in escorting a large number of arrested persons. On 18 December 2005, when notified that massive arrests were to take place, five platoons stood by at Gloucester Road at 00:14 am.

Detention Facilities for Arrested Persons

13. The Police had planned that in case of massive arrests, the Detained Persons Handling Area (DPHA) would be activated immediately to handle arrested persons, who would then be sent to the Temporary Detention Centre (TDC) for detention.

14. The Police had considered a number of sites for setting up the DPHA and the TDC. Factors for consideration included security, capacity, the distance between the DPHA and the possible place of arrest, and the distance between the DPHA and the TDC. Moreover, the prevailing operational circumstances, such as traffic conditions, were also considered. Finally, the Police decided to set up the DPHA in the car park of Kwun Tong Police Station at 13, Lei Yue Mun Road. The car park could accommodate over 200 arrested persons. The TDC was set up in Kwun Tong Magistracy at 10, Lei Yue Mun Road. It takes about a 5-minute drive to travel from Kwun Tong Police Station to the Magistracy. The TDC could accommodate a maximum of about 220 arrested persons.

15. Should the TDC be full, the detention facilities of Police stations in other regions would be put to use in the following order: Kowloon East, Kowloon West, New Territories South and New Territories North. The

capacity for accommodating arrested persons in each Police station varied, depending on the size of the facility and the number of persons already detained for other incidents. The transport of arrested persons to the detention facilities was coordinated jointly by the DPHA and the TDC.

Operation of Detained Persons Handling Area

16. The DPHA was to provide a secure facility to handle a large number of arrested persons promptly so that the arresting officers can return to the front-line as soon as possible. The DPHA was to carry out four processes, namely photo taking, filling out the Short Arrest Form and processing of exhibits, fingerprinting and review.

17. The Police Force Ordinance, Cap. 232, Laws of Hong Kong, empowers Police officers to take photographs and fingerprints from arrested persons. An arrested person brought to the DPHA would wear a wrist band with the Short Arrest Form number written for identification purpose. Arrangement would then be made for the arrested person to take a photograph with the arresting officer. Afterwards, the arresting officer would fill out a Short Arrest Form, which recorded brief details about the arrested person, the arresting officer and relevant exhibits. The Police officer responsible for investigating the case should also fill out a Proforma for Crime Officer, which recorded details of the arrested person and the investigating officer, details of the arrested person's injury (where appropriate), and whether the arrested person consented to have the Consulate informed. The two forms would then be faxed to the Police Enquiry Unit for computer input. After that, the arrested person would be fingerprinted on the right thumb. When all the processes had been completed and verified, the arrested person would be sent to the

TDC for detention.

18. It took about 10 minutes for the DPHA to process an arrested person who was cooperative and did not require interpretation service. It would take a longer time if the arrested person was uncooperative or needed interpretation service.

Police Enquiry Unit

19. The Police Enquiry Unit (PEU) was set up in the Police Headquarters under the command of an SP. The unit had 52 Police officers working in two shifts. Members of the unit, who came mainly from the Major Incident Investigation and Disaster Support System, were responsible for collecting information about persons arrested, casualties, use of force and damage to the Police properties. PEU was also responsible for compiling statistical reports. Apart from maintaining close liaison with various Police formations (including the DPHA), PEU also maintained close contact with the Integrated Call Centre of the MCO.

Setting up of a Closed Area

20. To safeguard public order and public safety in the Conference venue (HKCEC) and its environs, the Chief Executive, after seeking advice from the Executive Council, made the Closed Area (Hong Kong Ministerial Conference of the World Trade Organisation) Order under the Public Order Ordinance on 3 October 2005. The Order took effect on 2 December 2005 following negative vetting by the Legislative Council. The closed area covered the Conference venue and its environs, including

the HKCEC and its connecting roads, some of the roads leading to the hotels near the HKCEC, the Tamar Site, the area around Fenwick and Wan Chai Ferry Piers, as well as the sea area around the HKCEC peninsula. The closed area, less than one square kilometre, was effective from 6 pm on 12 December 2005 (the day before the opening of the MC6) to 5 am on 19 December 2005 (a few hours after the official closing of the MC6). During the period, only holders of accreditation badges and authorised persons were allowed access to the closed area. The closed area set up in Hong Kong is considered very small as compared to those restricted areas set up in other countries for similar international events in recent years. Effective hours only covered the Conference period and a few hours before and after the Conference. Given the crowded environment of Hong Kong, it struck a correct balance between safeguarding the public order and safety and minimising inconvenience caused to the public.

Facilitation of Demonstrations

21. During the MC6 period, the Police facilitated the holding of 105 public meetings/processions, including six which had not provided prior notification to the Police as required by the law. Throughout the Conference period, the Police upheld the principles of “providing the greatest convenience for all public activities peacefully held”, “exercising maximum restraint” and “using minimum force” in its operational planning. To facilitate the conduct of peaceful demonstrations, even though no prior notification was given in some of the demonstrations as legally required, the Police facilitated their conduct where practicable provided that no serious threats of public disorder or violence were identified.

22. In managing public order events, the Force policy is to facilitate the conduct of all peaceful public order events. Front-line officers are required to adopt the principles of “reasonableness” and “proportionality” while dealing with public order events held by members of the public in exercising their constitutional rights.

Liaison with NGOs prior to Demonstrations

23. One of the key objectives of the Police preparation was to coordinate the smooth conduct of peaceful demonstrations as far as practicable. As such, the Police and the MCO were committed to maintaining liaison with the NGOs from the outset. The Police set up a liaison unit to maintain contact with 59 local as well as overseas NGOs. Prior to the MC6, there had been 289 contacts with the NGOs to assist them to hold demonstrations and other activities and to ensure effective communication between the parties involved. Any special requests from the organisations concerned were immediately referred to the responsible departments for action. Local and overseas NGOs contacted by the Police included:

- (1) Korean People’s Action against Free Trade Areas and WTO
- (2) Korean Peasants League
- (3) Oxfam Hong Kong
- (4) Greenpeace Hong Kong
- (5) Hong Kong People’s Alliance on WTO
- (6) Asian Student Association
- (7) United Filipinos in Hong Kong

- (8) Asian Migrant Centre
- (9) Fisherfolk Movement
- (10) World Alliance for Citizen Participation (CIVICUS)
- (11) People's Caravan
- (12) Indonesian Migrants Workers Union, etc

24. As there were a large number of representatives from various countries participating in the WTO Conference which lasted for six full days, the Police were required to make special traffic, crowd management and security arrangements. Consultation with the other relevant government departments and organisations were necessary for the arrangements. In processing notifications of public order events, many factors needed to be considered, including road closure and diversion, public transport arrangements, etc. Moreover, it was necessary to consult the relevant district organisations, such as the District Council, to ensure that inconvenience caused to the public by various events could be minimised.

25. The Police discussed at great length with the Hong Kong People's Alliance on WTO (HKPA) on arrangements for the three large-scale processions held on 11, 13 and 18 December 2005. Topics discussed included the number of participants, the procession route, the assembly venue, the location of the DPAA, and other relevant issues such as the provision of mobile toilets and the erection of security fences inside the Wan Chai Public Cargo Working Area (PCWA). The discussions were held in accordance with principles upheld by both parties – “to enable public order events to be held peacefully during the MC6 period”, “to facilitate freedom of expression by the public” and “to safeguard public safety”. After numerous meetings and site visits, a compromise on

various arrangements was reached in late-November 2005. The Police immediately issued letters of no objection on 23 November 2005 concerning the three processions. Six conditions were listed in the letters, including the procession route, the number of marshals to be deployed, the requirement for the procession to follow traffic directions given by the Police, the requirement to inform the Police as soon as possible if there was any significant change in the number of participants in the procession, crowd control at the assembly venue, and the requirement for the organiser to maintain liaison and contact with the Police.

26. The Police also processed notifications submitted by other organisations holding public order events and processions during the MC6 period, some of which were smaller in scale involving a small number of participants. In all cases, the Police held discussions with the organisers and issued letters of no objection without delay. In the fastest case, the letter of no objection was issued on the same day of the receipt of notification. Conditions similar to those mentioned above were listed in all letters of no objection, which sought to ensure the smooth conduct of the processions. The Police had throughout taken a proactive role in contacting the HKPA and other organisations with a view to assisting the organisers to prepare for the public order events they organised.

27. Some members of the HKPA had also visited South Korea to study the local demonstration activities. Relevant information and advice was then given to the Police concerning the Police deployment (e.g. avoid deploying officers with full anti-riot gears as far as possible to minimise provocation). The Police also held seminars for the marshals of the HKPA and members of overseas NGOs, explaining to them matters

concerning the WTO Conference and arrangements during the Conference period. The Police also distributed a Korean translation of the “Notes on the Notification of Public Assemblies/Processions” to the HKPA and representatives of Korean organisations.

Information Gathering

28. To ensure effective deployment and smooth conduct of public order events during the MC6 period, the Police had contacted the following companies before the Conference, with a view to gathering information for manpower deployment and traffic arrangements:

- (1) The Police had contacted transport companies to enquire about the number of coaches rented and if any coaches would enter the Wan Chai area during the MC6 period. With the information collected, the Police aimed to assess the traffic conditions around Wan Chai area during the MC6 period, and the possible impact on traffic should any untoward incidents occur.
- (2) The Police had also enquired with boat rental companies about the number of boats which would participate in sea processions to facilitate the Marine Police’s preparation.
- (3) The Police had also contacted some hotels, guest houses and camps to enquire about the number and distribution of overseas demonstrators coming to Hong Kong. This facilitated preparations for traffic, vehicular access and crowd control and the formulation of contingency plans for

emergencies.

29. The purpose of gathering the above information was solely to facilitate manpower deployment, traffic arrangements and the formulation of contingency plans to ensure that all public order events could be held smoothly. During the process of information gathering, the Police had not interfered with a view to hindering any persons from using the abovementioned facilities.

Liaison with NGOs during Demonstrations

30. To facilitate the peaceful and smooth conduct of the assemblies and processions during the MC6 period, the Police NGO Liaison Team, comprising 20 negotiators under the command of a Chief Superintendent, was set up to contact organisers of public order events and render assistance prior to and during the Conference period.

31. During the MC6 period, the Police negotiators took the initiative in contacting demonstration organisers. Between 11 and 18 December 2005, the negotiators contacted 27 local and overseas demonstration organisations on 160 occasions, including meetings and telephone contacts. During the demonstrations and processions, the Police negotiators rendered repeated assistance to the organisers to ensure the smooth conduct of the public order events. For example, on 11 December, the HKPA originally planned to stage a procession from Victoria Park to Central Government Offices at 4 pm. However, at 2:45 pm that day, the HKPA wished to change the location of the speech to Central Government Offices due to the malfunctioning of the loudspeakers. In response to the HKPA's request to start the procession

earlier at 3:30 pm, the Police rearranged the manpower deployment and road enclosure arrangements within a very short time enabling the procession to start earlier. On 13 December, the Police assisted the HKPA in arranging coaches to convey the Korean demonstrators from Wan Chai. The HKPA requested the coaches be allowed to go straight to Hung Hing Road to convey the persons concerned. Although these requests might not conform with the operational assessment, the Police upheld the principles of “providing the greatest convenience for all public activities peacefully held” and tried its best to coordinate. Eventually the Police exercised flexibility and allowed the coaches to drive to the junction of Lockhart Road and Marsh Road near Hung Hing Road to convey the persons concerned.

32. On 14 December, after the outbreak of confrontations between some Koreans and the Police, members of the Police NGO Liaison Team visited some Koreans at Wu Kwai Sha Youth Village. Apart from consoling the injured persons, the negotiators also met three Korean demonstration leaders and gave them the Korean translation of “Notes on the Notification of Public Assemblies/Processions” again. The demonstration leaders thanked the Police for their concern and the HKPA was also informed of the Police visit.

33. On 15 December, the Police assisted in arranging for the Filipino fishermen to present their petition to the Filipino representatives of the WTO Conference. The organisation concerned later sent an e-mail to the Police to express its appreciation. On 15 December, the demonstrators staged a “three paces, one kaotow” procession to the Wan Chai PCWA. The procession arrived at the PCWA at 5:35 pm. At 7:16 pm, the persons concerned asked the Police to arrange for their meal

boxes to be delivered there which the Police duly arranged. At 8 pm the Police also allowed the coaches to enter Hung Hing Road to take the demonstrators back to their camp. Although these additional and last-minute requests added difficulties to the Police deployment in situ, the Police responded to them positively by making the necessary arrangements. During the MC6 period, the Police originally designated Hung Hing Road as an emergency access between the HKCEC and the eastern part of Hong Kong Island. Although some demonstrators repeatedly staged demonstrations at Hung Hing Road, the Police acted in a tolerant manner and did not stop them.

34. The original procession route of the HKPA on 18 December would not go past Hennessy Road. However, the HKPA wished that the procession could be widely seen and made a last-minute request to the Police to allow them to go past Hennessy Road where there was a greater pedestrian flow. The Police acceded to the request and made necessary arrangements.

35. Accidents had taken place during vehicle parades in the past. In June 1997, a vehicle modified for parade purpose was involved in a traffic accident during the parade, causing death and injuries. For each procession, where the organiser needs to use any vehicle with fixtures installed, such vehicle should be examined by the Police in accordance with the Road Traffic Ordinance, Cap. 374, Laws of Hong Kong, to ensure it is safe and roadworthy. A vehicle used repeatedly in subsequent days of procession still requires examination before each procession to ensure safety. As a matter of practice, the organiser gives prior notification to the Police for arranging the examination to enable the vehicle to be used in the procession. This practice has been very

effective. On both 11 and 13 December, the procession was led by a truck mounted with loudspeakers. As prior notification was given on both occasions, the Police were able to examine the truck before the procession. However, on 15 December, the organiser requested to use the truck without prior notification. The Police required the truck to be examined for public safety. After examination, the Police allowed the vehicle to participate in the demonstration that day.

Part II – Use of Force

36. This part sets out in detail the confrontations between some demonstrators and the Police and the level of force used by both parties.

Principles on the Use of Force

37. In accordance with the United Nations’ “Basic Principles On the Use of Force and Firearms by Law Enforcement Officials”, the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights. Law enforcement agencies shall formulate a code of conduct that allows for the use of different degrees of force, including the use of non-lethal incapacitating weapons, by law enforcement officials in different circumstances. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means to achieve the intended purpose. They may resort to the use of force and firearms only if all other means remain ineffective. Law enforcement officials shall exercise restraint in the use of force and act according to the prevailing circumstances and in proportion to the seriousness of the offence.

38. Principle 9 provides that law enforcement officials shall not use firearms except in defence against the imminent threat of death or serious injury, and unless less extreme means are insufficient to achieve this objective. Principle 10 provides that law enforcement officials shall give a clear warning of their intent to use firearms as far as practicable. Principle 22 stipulates that law enforcement agencies shall establish effective reporting and review procedures for the investigation of all incidents involving the use of firearms by law enforcement officials. Principles 12 to 14 specify the policing of unlawful assemblies. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and under the conditions stipulated in Principle 9.

39. The principles on the use of force by the Police are in line with the guidelines of the United Nations. Police General Orders (PGO) 29-01 “Use of Force” stipulates that “a Police officer shall display self-discipline and exercise a high degree of restraint when dealing with the public and shall not resort to the use of force unless such action is strictly necessary and he is otherwise unable to effect his lawful purpose. Police officers shall identify themselves as such and, when circumstances permit, a warning shall be given of the intention to use force and of the nature and degree of force which it is intended to use. Persons shall be given every opportunity, wherever practicable, to obey Police orders before force is used. The principle governing the use of force is that only the minimum force necessary to achieve the purpose may be used

and once that purpose has been achieved, the use of such force shall cease. The force used must be reasonable in the circumstances.”

40. In order to cope with the possible confrontations during the MC6 period, the Police had repeatedly instructed the front-line officers in internal briefings to use different tactics and degrees of force in the face of different circumstances. The briefings reiterated the salient points of PGO 29-01 “Use of Force” and reminded front-line officers to avoid over-reactions to any provocation in interdicting unlawful activities.

41. Front-line officers were reminded time and again to use different tactics in dealing with different degrees of violence used by the people concerned. The lowest level of force shall be used if the situation so warrants and the force used ultimately shall depend on the prevailing circumstances. The use of such force shall cease once the intended purpose has been achieved.

42. There are different ways to deal with people who failed to comply with the agreed arrangements. The Police will first issue verbal advice or use Police negotiators for assistance. Where the situation so warrants, mills barriers shall be used to separate the Police officers from the people concerned. In the face of violence, the Police adopt a defensive strategy using mainly shield tactics to block off the demonstrators. A higher degree of force such as OC foam and baton shall be considered only when officers are being charged at or attacked and there are no other effective means to resist and stop the people concerned. Field commanders may consider using other types of force such as CS grenades and super sock rounds if these people escalate their violence which may cause serious bodily harm to the Police officers or any other persons.

Use of OC Foam (Oleoresin Capsicum)

43. The OC foam is widely used by Police forces of other countries. It is a lower degree of force than the baton and CS grenade. Made of pepper seeds, the OC foam irritates the eyes and nerve cells. According to the manufacturer's instructions, the OC foam should be sprayed to the eyes, nose and mouth of the receptor in order to incapacitate the receptor's movement and resistance. Affected persons can rinse the areas affected with clean water to alleviate the pain and uncomfortableness. Spraying the OC foam in the face and eyes is taught both by the United States Law Enforcement Training Agency and the Federal Bureau of Investigation.

Use of CS Grenade

44. The CS grenade is used for crowd dispersal. Inhaling the tear gas will trigger coughs and tears, and reduce one's movement capability. Affected persons can rinse the areas affected with clean water to alleviate the pain and uncomfortableness.

Use of Water Jet Backpack

45. The water jet backpack, which is used to discharge CS spray, is used for crowd dispersal. Contacting CS spray will trigger coughs and tears, and reduce one's movement capability. Affected persons can rinse the areas affected with clean water to alleviate the pain and uncomfortableness.

Use of Super Sock Rounds

46. The super sock round is a higher degree of force as compared with the OC foam, baton, CS grenade and water jet backpack. Fired from a Remington Shotgun, it is in the form of a single bag made of reinforced elastic fibre filled with lead balls. It will not spread out after discharge and should be aimed at the lower limbs. It is used for stopping an individual's violent act.

Use of Force by the Police During the MC6 Period

47. During the MC6 period, the Police deployed soft order Police officers to handle the demonstrators; hard order officers would only be deployed when people used force against the Police. According to Police records, 6 small-scale disorderly or violent incidents occurred on 13, 14 and 16 of December at the Hung Hing Road Police cordon outside the Wan Chai PCWA and the South Korean and US consular premises. The Police handled these incidents with the minimum force including mobilising negotiators to defuse the protestors' confrontational behaviour. Shield tactics were used to defend against charges to the Police cordon. OC foam and batons were only used when the shield wall came under heavy attacks.

48. A large-scale confrontation took place on 17 December in two stages. When a large procession set off from Victoria Park to the DPAA at the Wan Chai PCWA, several hundred people suddenly left the DPAA and attacked the Police officers with metal bars and bamboo poles in an attempt to break through the Police cordon. The Police used OC foam

and batons in defence, and also sprayed water at the crowd by using fire hoses. Later that day, a group of about 2 000 people participated in a notified procession from Victoria Park to the DPAA at the PCWA with the agreed route of going through Lockhart Road and Marsh Road. However, the group veered off from the agreed route and proceeded along Lockhart Road, engaging in violent confrontations with the Police at the junction of Fleming Road and Harbour Road, as well as in the vicinity of Central Plaza. Subsequently, over 1 000 people were arrested.

49. The following paragraphs give a detailed account of the public order events conducted during the period from 11 to 18 December.

11 December 2005 (Sunday)

50. There were two anti-WTO protests held on 11 December (Sunday). One was a procession consisting of 3 200 people marching from the Victoria Park to the Central Government Offices. The other was a candle light rally at the Victoria Park with about 400 participants. Both activities ran peacefully.

12 December 2005 (Monday)

51. No major protest was held that day.

13 December 2005 (Tuesday)

52. At 2:00 pm on 13 December (Tuesday), about 4 700 people set off from the Victoria Park to the Wan Chai PCWA. Later, about 100 of them jumped into the sea at the PCWA in protest. Some of them

returned ashore with the assistance of the Marine Police officers on standby. The first confrontation between the demonstrators and the Police occurred at 4:24 pm. A group of about 300 Koreans did not follow the agreed procession route and refused to enter the Wan Chai PCWA. They headed towards the HKCEC along Hung Hing Road carrying a large wooden altar. Hung Hing Road served as an emergency vehicular access between the HKCEC and the eastern part of Hong Kong Island and had to be kept clear. Therefore instead of putting up fixed roadblocks, the Police officers formed a human cordon line there to stop the persons concerned from advancing. The demonstrators were requested to return to the Wan Chai PCWA with the assistance of Police negotiators.

53. When the people concerned were stopped by a team of soft order Police officers, they attempted to break through the Police cordon by using the wooden altar as a battering ram. A standby team equipped with helmets and round shields immediately reinforced their colleagues to halt the advance. At this point, the people concerned set the wooden altar alight and pushed it towards the Police cordon. The Police officers put out the fire with fire extinguishers immediately and seized the altar. They also sprayed OC foam and used shields and batons to defend themselves against the persons concerned.

54. In this incident, 28 officers discharged 28 cans of OC foam and 13 officers used batons. Two officers and three demonstrators sustained minor injuries.

55. In conclusion, it was effective to use OC foam on the day since the demonstrators were not well-prepared. The Police stopped using force

once the demonstrators ceased using violence. The Police officers remained highly restrained thereafter even in the face of repeated provoking and threatening acts at the Police cordon. OC foam and batons were used to protect the Police officers and to maintain the integrity of the cordon line only when the demonstrators charged at the Police cordon. The Korean demonstrators were extremely well coordinated in maintaining their momentum. The leader(s) stayed at the front to give command and the attackers alternated in battering the Police shield wall in an attempt to break through the cordon. Not all people took part in an attack at the same time, but groups alternated to batter the Police cordon at the front. Acting in concert, they were remarkably cohesive.

14 December 2005 (Wednesday)

56. On 14 December (Wednesday), a group of about 140 Koreans approached the Police cordon at Hung Hing Road again. Between 12:30 pm and 1:30 pm, they repeatedly attempted to force their way through. A small number of Indonesians also attempted to break the Police cordon. The Police officers used OC foam and batons to fend off the attacks. Fourteen Police long shields were snatched from the Police during the confrontation, which were later returned.

57. That day, 48 officers sprayed a total of 79 cans of OC foam and 30 officers used batons. One demonstrator and one officer sustained minor injury.

58. In conclusion, to prevent the confrontation from escalating, officers in soft order were initially deployed to guard at the DPAA. Officers in

hard order were summoned for support when the persons concerned veered off from the procession route to the cordon. On this occasion the demonstrators were well prepared. They protected their faces with plastic wraps and goggles so the Police officers had to use more OC foam to achieve the desired effect. Again the demonstrators displayed their well-coordinated and highly organised strategy with two leaders (one male and one female) commanding the attacks at the forefront while the others snatched the Police shields skilfully.

15 December 2005 (Thursday)

59. The anti-WTO activities held on 15 December (Thursday) ran peacefully in the DPAA without any confrontation. That day, a group of about 300 Koreans staged a “three paces, one kaotow” procession from the Victoria Park to the DPAA at Hung Hing Road in an orderly manner with a female leading. In response, the Police deployed female officers of PTU Tango Company to the front line with other officers providing support. This strategy helped ease tensions.

60. With the effective deployment strategy, the Police adopted similar tactics in deploying the Tango Company to the front line in subsequent demonstrations. They would be replaced by hard order officers when the situation so warranted. The Police believed that this strategy eased tensions, enabled peaceful demonstrations to be conducted smoothly, and upheld the principle of using the minimum force.

61. On the same day, several hundreds of South East Asian fishermen engaged in a procession from the Victoria Park to the DPAA. On reaching Hung Hing Road, they demanded to submit a petition letter to

the Philippine's WTO delegation. The Police later made arrangements for 10 representatives to submit the petition letter to the delegation in the petition area.

62. The demonstrations held on that day ran peacefully.

16 December 2005 (Friday)

63. At 3:38 pm on 16 December (Friday), a group of 29 Koreans (including females and elderly males) charged at the Police cordon at Hung Hing Road, resulting in minor pushing and shoving. Since the strategy to deploy the Tango Company to the forefront was effective, the Police used the same tactics again. The Tango officers accomplished the mission successfully without requiring any reinforcement.

64. At about the same time, a group of about 360 people (mainly Koreans) gathered at Harcourt Garden to participate in two processions organised by a South Korean group. The first procession, consisting of 130 people, went to the US Consulate whilst the other procession, consisting of 92 people, set off to the South Korean Consulate at 4:00 pm.

65. The first procession reached the US Consulate at 4:30 pm together with many media reporters. The Police closed two vehicle lanes at Garden Road and deployed officers to prevent the persons concerned from intruding into the consular premises. After arriving at the US Consulate, the demonstrators chanted slogans and six persons shaved their heads in protest. At 5:41 pm, the demonstrators suddenly turned disorderly, sprayed red paint on the wall of the Consulate and threw eggs at the building. The Consulate sign was damaged. The Police

immediately intervened to prevent the demonstrators from causing further damage as a result of which a scuffle broke out with no one being arrested.

66. The other procession to the South Korean Consulate arrived at the Far East Financial Centre in Admiralty at 4:23 pm. Some of the persons concerned entered the building and tried to rush to the Consular premises on the 5/F but were stopped by the security guards. A scuffle ensued and the Police intervened immediately. After negotiation, the persons concerned agreed to leave peacefully at about 11:00 pm. No one intruded into the South Korean Consulate.

17 December 2005 (Saturday)

67. According to the intelligence the Police received from the demonstrators, the latter would escalate action. This reinforced similar media reports. On 17 December, the Police stepped up security at the Hung Hing Road cordon by putting in place security fences weighted with concrete blocks. In anticipation of someone setting objects on fire, the Fire Services Department (FSD) was requested to stand by at the scene. Four fire hoses were also installed with the assistance of FSD, two behind the Police cordon and two on the concrete blocks. The fire hoses were connected to the public fire hydrants in the area without connecting to any fire pumps or appliances. The salt water sprayed from the hoses did not contain any stimulants. The power of a fire hose is 6 bars but the power of a regular anti-riot water cannon is 13 bars.

68. That day, a group of 620 people took part in a procession from the Victoria Park to the Wan Chai PCWA at Hung Hing Road. At about

4:00 pm, several hundred people dashed out of the PCWA and attacked the Police at Hung Hing Road with metal bars and bamboo poles in an attempt to break through the cordon. Long plastic chains were thrown over the shield wall and then dragged back with intent to snatch the Police shields and create a breach. This attack was significantly more aggressive than any of the previous ones. As a result, an officer was pulled to the ground by a chain coiled around his neck and he became unconscious. The Police officers used OC foam and batons to fend off the attack. As most of the people who attacked the Police were well protected with goggles, plastic wraps, scarfs and handkerchiefs, OC foam did not work effectively. Following the injury of two more officers, the Police decided to spray water at the crowd with fire hoses in order to stop the attack. The use of fire hoses, each operated by two officers, proved to be effective. The demonstrators ceased attacking the shield wall almost immediately. Only a few people threw objects to officers on the platform. The Police kept broadcasting a warning message in Chinese, English and Korean through the broadcasting systems of Police vehicles and the Wan Chai Sports Ground. The content of the warning message was “Disperse; otherwise, the Police will resort to a higher degree of force. Leave the scene immediately if you are a peaceful demonstrator.”

69. Later that day, another procession consisting of about 2 000 people set off from the Victoria Park to the Wan Chai PCWA. Sources said the Koreans might veer off from the original route. Therefore, the Police took the initiative in contacting the HKPA to express the Police concern about possible chaos and the impact on the public peace. On arrival at the junction of Lockhart Road and Marsh Road, over 1 000 demonstrators attacked the Police officers maintaining public order at the junction.

70. The people concerned used hard objects and a large wooden altar to attack the officers who were in soft order in a forceful attempt to veer off from the agreed route. Later, when they were blocked by the Police cordon of officers in hard order, a violent confrontation broke out. The demonstrators attacked the Police officers in addition to snatching Police shields, helmets and batons. They tried several times to overturn the two Police vehicles. Realising it was impossible to advance along this route, several groups suddenly changed their routes and attacked other defence lines. One person discharged a fire extinguisher whilst others splashed some unknown liquid at Police officers. Officers splashed with the liquid claimed it had an odd smell and hurt their eyes. TV reporters reported that the liquid smelt of kerosene.

71. At 5:20 pm, at least 100 people advanced westward from Hennessy Road. A few other groups of people scattered in Wan Chai area, bringing the trams to a halt and buses to detour. At 5:25 pm, more people, including those who confronted with the Police at Hung Hing Road earlier, joined the disorder. About 1 000 people gathered at the junction of Lockhart Road and Marsh Road, whilst another 500 at the junction of Lockhart Road and Tonnochy Road kept attacking the Police cordon. Since the shops in the area did not have any precautionary measures against the disorder, the Police did not use a higher degree of force to avoid causing damage to these shops.

72. At 5:31 pm, numerous violent crowds tried to break through a number of Police cordons. The Police had to implement large-scale road closures including the closure of the south bound lane of the Cross Harbour Tunnel and the north bound lane of the Aberdeen Tunnel to protect other road users.

73. At 5:45 pm, the abovementioned violent crowds began to gather in front of the Police cordon at Fleming Road and Harbour Road. The traffic at Gloucester Road came to a complete standstill. At about 7:00 pm, a serious disorder broke out in the vicinity of Fleming Road and Harbour Road. The demonstrators used metal bars dismantled from mills barriers, wooden frames dismantled from the hoardings and 2.5-meter-long strong wooden poles to attack the Police officers. They threw all types of objects at the Police and constructed a “rhombus mills barriers structure” to keep battering the Police in an attempt to break through the cordon.

74. With the escalation of the disorder, the Police resorted to using CS grenades and a water jet backpack apart from OC foam and batons to disperse the crowd, control the situation and prevent more serious injury. When situation so warranted, super sock rounds were fired at individuals to interdict the more serious attacks occurring in the vicinity of the Central Plaza. At the time, a person attacked a Police officer violently with a 2.5-meter-long strong wooden pole and broke his shield. Since that person attacked Police officers repeatedly and was out of the effective range of a baton or OC foam, an Inspector instructed a Police Constable (PC) to fire one super sock round at him with a view to stopping his attack and preventing more officers from sustaining more serious injuries. After the person was warned to no avail, the PC fired one super sock round at him. However, this demonstrator continued the attack and the PC had to fire another round. The demonstrator escaped into the crowd subsequently. Later another four persons attacked the Police cordon with 2.5-meter-long strong wooden poles. Following warning which was of no avail, the PC fired one super sock round at each

of them and successfully held them back, preventing the officers at the cordon from sustaining more serious injury.

75. With the deployment of CS grenades and the water jet backpack, the violent crowds gradually dispersed and the Police cordon advanced accordingly. The Police also deployed manpower to prevent the demonstrators from entering Wan Chai north, and the vicinity of Lockhart Road and Fleming Road again. Finally, over 1 100 people gathered under the Fleming Road flyover at Gloucester Road. They launched violent attacks on the Police repeatedly in an attempt to break through, but the Police successfully contained them at the location. The HKPA admitted through the media that the demonstrators were “out of control”.

76. That day, 203 officers used 631 cans of OC foam and 34 CS grenades in total; one officer used the water jet backpack to discharge CS spray; 472 officers used batons and one officer fired 6 super sock rounds. The Police also used fire hoses. 79 officers were injured during the disorder on 17 December with four of them sustaining bone fractures (one PC’s round shield was broken and his left forearm was fractured by a demonstrator using a long wooden pole, one PC’s left knee was fractured by a wooden pole, and one PTU officer’s foot was fractured by the attack with mills barriers), five PCs had some unknown liquid splashed on their eyes or injured themselves while trying to dodge the liquid. During the confrontation, seven shields and four riot helmets were broken and two backpack fire extinguishers were dented by persons using wooden poles. According to the Police records, 69 members of the public, including 64 males and 5 females, were injured during the disorder on 17 December. This figure included some injured persons who attended the hospitals for treatment by themselves without Police

arrangement. However, there were others who sought medical treatment by themselves which did not come to Police attention. Hence the total number of injured civilians remained unknown.

77. In conclusion, since the demonstrators announced openly of their intent to escalate the violence, the Police stepped up security measures and decided to close Hung Hing Road allowing only a narrow access for emergency vehicles. The Police also strengthened deployment in the area around Fleming Road. As it was anticipated that someone would set objects on fire, FSD was requested to stand by at the scene. The Police turned on the fire hoses only after three officers were injured including one pulled to the ground by a plastic chain coiled around his neck and became unconscious. The fire hoses were used under the supervision of the firemen. The strategy was proven effective and successfully slowed down the attack.

78. Following the escalation of the disorderly activities in Wan Chai area, the Police immediately deployed nine Companies in hard order at Harbour Road, Fleming Road and the vicinity of the HKCEC to ensure that the MC6 venue and the Conference were free from interference. The people concerned used various weapons including metal bars dismantled from mills barriers and long wooden poles dismantled from hoardings at Central Plaza. They also converted the mills barriers into a rhombus metal structure to batter the Police cordon. The Police only used OC foam and batons initially but the effects were minimal because the demonstrators were well-prepared with adequate protection using goggles, plastic wraps and life jackets. After a number of front-line officers were injured, the Police had to resort to CS grenades, water jet backpack and super sock rounds according to the prevailing

circumstances. They proved to be effective. The crowd stopped attacking the Police and dispersed.

18 December 2005 (Sunday)

79. There was only one large-scale anti-WTO activity held on 18 December (Sunday). The procession, with 5 800 participants, set off from the Victoria Park to the Wan Chai PCWA. The activity ran peacefully without any untoward incidents.

Conclusion

80. Throughout the MC6 period, the Police used 6 super sock rounds, 34 CS grenades and 738 cans of OC foam in total. 515 officers used batons. Fire hoses were also used to discharge water at the people concerned. One officer used his water jet backpack to discharge CS spray.

81. Throughout the operation, the Police upheld the principle of using the minimum force to contain the situation. When the demonstrators escalated their violence, the Police used a greater degree of force in response only when the situation so warranted. In all incidents of disorder, the situation permitting, the Police gave prior warnings to the people concerned on the use of force. As the demonstrators and media came from different parts of the world, coupled with the commotion at the scene, the Police could not ensure that everybody heard and understood their warnings. In view of the above, Police warnings were accompanied by actions and gestures in permitting circumstances, including the display of warning banners, hand signs signalling the crowd

to leave and a clear demonstration of the actions to be taken such as using the fire hoses, etc, in order to clearly indicate the intention of the Police actions.

82. In the evening of 17 December, disorder broke out at the junction of Fleming Road and Harbour Road and in the vicinity of Central Plaza. To prevent more serious injuries, the Police had no choice but to resort to CS grenades and the water jet backpack to disperse the violent people in addition to using OC foam and batons. Some people attacked the Police officers in the head with 2.5-meter-long strong wooden poles. The length of the wooden poles enabled the demonstrators to attack the Police officers from a distance well outside the effective range of batons and OC foam. The helmets and shields could not provide full protection against the violent attack of the long wooden poles so the Police had to use super sock rounds in individual cases to prevent more Police officers from sustaining serious injuries.

83. The force used by the Police in dealing with the violent confrontations which occurred throughout the MC6 period fully conformed with the laid down guidelines. The Police had investigated the justifications and the propriety of the use of force after each and every incident. All investigation results were reviewed by a Chief Superintendent and vetted by an Assistant Commissioner of Police who would decide whether further investigation was required. The investigation result concluded that all incidents of the Police use of force during the MC6 period were justified and the degree of force used was appropriate.

Police Injuries

84. During the MC6 period, 89 Police officers were injured, including 73 injured during confrontations with the demonstrators. Of the injured officers, five sustained bone fractures, six received lacerations and two were hit by people using mills barriers. Another five had unknown liquid splashed on their eyes or were injured while trying to dodge the liquid, five officers were hospitalised. All except 10 officers were injured on 17 December.

Part III – Arrest and Removal of Arrested Persons

The Incident at Gloucester Road in Wan Chai between 17th and 18th December

85. As mentioned in paragraphs 66 to 83, a large-scale confrontation took place on 17 December, thus necessitating the Police to take arrest action. The following paragraphs give a detailed account of the Police operation.

Containment Stage

86. At about 5:42 pm on 17 December, in order to prevent the disorder from proliferating, the Police strengthened the manpower deployment of the cordon at Hennessy Road and Fleming Road, and successfully stopped the people concerned from advancing westward. The Police also set up two cordon lines at Fleming Road and the west of Fenwick Street, and deployed resources at the junctions of Arsenal Street and

Hennessy Road, and Arsenal Street and Gloucester Road. At 6:30 pm, the Police officers at the two junctions advanced eastward and stopped at the junction of Obrien Road and inner Gloucester Road. At the same time, officers deployed in the vicinity of Tonnochy Road and Hennessy Road also advanced westward, sweeping the junction of Jaffe Road and Stewart Road. En route, the Police appealed to members of the public through loudspeakers to leave the area for personal safety. At about 8:30 pm, the demonstrators assembled in different locations within Wan Chai area including the Fleming Road flyover, Central Plaza area in Gloucester Road, the junction of Jaffe Road and Fleming Road, and the junction of Lockhart Road and Fleming Road. After the Police sweeping, the demonstrators who were scattered all over Wan Chai area gathered at the junction of Gloucester Road and Fleming Road. The Police took this opportunity to deploy more resources. During the whole course, there was no indication that Police officers led a group of Koreans into the detention area to join the other demonstrators.

Filtering Stage

87. At midnight of 17 December, over 100 people in the detention area requested to leave. Those not involved in the incident, including onlookers, tourists and news representatives, were allowed to do so if there was no indication that they had participated in an unlawful assembly or attacked the Police officers. This was done after the Police had verified their identities and purpose of being at the scene, and checked for signs of confrontation (e.g. traces of OC foam or signs of taking part in a fight). To facilitate the prompt release of those not involved in any offence, the Police did not record the exact number of people allowed to go and their personal particulars. It was however

estimated that over 100 people were released.

Negotiation Stage

88. At midnight of 17 December, after enquiring with front-line commanders about the disorder, a Senior Superintendent commanding at the scene considered there was evidence to support that the people contained at the junction of Gloucester Road and Fleming Road might have participated in an unlawful assembly and attacked the Police officers. In conjunction with the legal advice sought earlier from the Department of Justice, he decided to have these people arrested. Police vehicles were deployed to Wan Chai area and five platoons (215 officers in total) responsible for escorting the arrested persons were deployed on stand-by. HQCCC instructed to set up a DPHA at Kwun Tong Police Station.

89. The Police immediately negotiated with the leaders of the demonstrators to ensure the smooth transfer of the detained persons. At about 1:00 am on 18 December, the Police informed two Korean leaders that people in the detention area would be arrested and removed. Negotiation with the Korean leaders was made through interpreters to seek their cooperation to ensure that the arrests and removal could be done peacefully. The Police promised that no action would be taken until the leaders had explained clearly to the demonstrators and secured the latter's cooperation. While the leaders and the demonstrators were in discussion, the Police called ambulances to the scene to convey five persons to hospital who requested medical treatment.

Arrest Action

90. Between 17 and 18 December, the Police arrested a total of 1153 people for the offence of “taking part in an unlawful assembly”. They included 1 115 persons in the detention area, 29 arrested in three hospitals and nine arrested in Victoria Park. The 1 153 arrested persons included 20 Hong Kong citizens (15 males and 5 females), 1 Mainlander (male), 13 Taiwanese (6 males and 7 females), and the remaining of the following nationalities:

Bangladeshi	4 (3 males and 1 female)
Canadian	1 (male)
French	2 (2 males)
Indian	1 (male)
Indonesian	23 (19 males and 4 females)
Japanese	5 (5 males)
South Korean	996 (850 males and 146 females)
South African	1 (male)
Spanish	1 (male)
Thai	76 (51 males and 25 females)
British	2 (2 males)
American	6 (2 males and 4 females)
Afghan	1 (male)
Total	1 153 (961 males and 192 females)

Arrest Action in the Detention Area at Gloucester Road

91. At 2:50 am on 18 December, after two Korean leaders promised that people in the detention area would cooperate with the Police, the Senior Superintendent commanding at the scene announced to the people

in the detention area through loudspeaker in both English and Chinese that the Police were arresting them for the offence of “taking part in an unlawful assembly”. The announcement was translated to these people by a Korean interpreter. Finally, a total of 1 115 persons (including 930 males and 185 females) were arrested at Gloucester Road.

92. During detention, the people concerned were given food and water for a number of times and were arranged to use the toilet. At about 3:00 am on 18 December, the Police delivered 1 200 bottles of water, 1 200 packs of biscuits and 1 200 pieces of cake to the detention area and delivered some of the provisions to the people concerned by trolley at 3:15 am. However, some of them pushed the water and food to the ground, which the Police subsequently left in front of them. People requesting to relieve themselves were arranged to use the toilets of Wan Chai Police Station in batches (5 to 7 people each time) under Police escort. None of these people was handcuffed while under escort. This arrangement continued until all the arrested persons were removed from the detention area.

Arrest Action in Hospitals

93. After serious confrontations had broken out between the demonstrators and the Police in the evening of 17 December, the Police believed that some who had attacked the Police might have sustained injuries and had gone to hospitals for treatment. Police officers were deployed to make enquiry in the three hospitals with an accident and emergency department on Hong Kong Island (including Queen Mary, Ruttonjee and Pamela Youde Nethersole Eastern Hospitals) and to arrest those who were suspected of participating in the unlawful assembly or

attacking Police officers. Between 11:20 pm on 17 December and 4:40 am the following day, the Police arrested a total of 29 people in these three hospitals: 17 in Ruttonjee Hospital, 8 in Pamela Youde Nethersole Eastern Hospital and 4 in Queen Mary Hospital.

94. At about 8:00 pm on 17 December, a team of Police officers went to the accident and emergency department of Ruttonjee Hospital with an interpreter. In order not to affect the operation of the accident and emergency department, the officers waited outside. Between 11:15 pm on 17 December and 4:40 am on 18 December, the officers saw 17 Koreans (16 males and 1 female), all dressed in Korean farmer suits and some of them with injuries, leaving the accident and emergency department. The Police officers identified themselves, informed and cautioned the Koreans through the interpreter that they were arrested for the offence of “taking part in an unlawful assembly”. The arrested persons were subsequently taken to the DPHA in Kwun Tong Police Station. Of the 17 Koreans arrested, 13 had received medical treatment, which the Hospital Authority confirmed to have been completed.

95. Another team of Police officers went to the Pamela Youde Nethersole Eastern Hospital to make enquiry. They arrested eight people (including 1 male and 1 female holding Hong Kong Identity Cards, 2 males and 4 females holding Taiwanese Passports) for the offence of “taking part in an unlawful assembly” between 0:40 am and 1:20 am on 18 December. Two of the arrested persons had received medical treatment which the Hospital Authority confirmed to have been completed. The arrested persons were subsequently taken to the DPHA.

96. The third team went to the Queen Mary Hospital to make enquiry.

They arrested four people (including 3 Korean males and 1 Korean female) for the offence of “taking part in an unlawful assembly” between 11:40 pm on 17 December and 2:40 am the following day. Two of the arrested persons had received medical treatment which the Hospital Authority confirmed to have been completed.

97. All 29 people were arrested in the above three hospitals with reasonable suspicion. The arrest actions were taken only after they had received medical treatment. The abovementioned arrested persons were released eventually.

Arrest Action in Victoria Park

98. The Police also deployed another team to the Victoria Park to see if they could locate any people who had participated in attacking the Police. After checking these people for signs of confrontation (such as traces of OC foam or signs of taking part in a fight), the Police arrested 9 Korean males for the offence of “taking part in an unlawful assembly” between 10:40 pm and 11:55 pm on 17 December. All of them were released eventually.

Removal of Detained Persons

99. The first phase of removal commenced at 3:02 am on 18 December. While the first batch of arrested persons was being removed, some of the females resisted and female officers had to carry them away. Arrested persons who put up resistance were restrained with handcuffs or plastic cuffs before boarding the vehicles. Later, when most of the arrested persons ceased putting up any resistance and acted calmly when being

taken away, handcuffs or plastic cuffs were not used. The Police sent the arrested persons to the DPHA in Kwun Tong Police Station by designated vehicles in batches. At about 5:30 am, the transfer slowed down to wait for more vehicles. At 5:45 am, the Police delivered bottled water, biscuits and cakes to the arrested persons.

100. At about 7:00 am on 18 December, a Korean leader, through an interpreter, requested to leave the scene in order to meet other Koreans outside the detention area. He also requested the Police to arrange for a meeting with the staff of the South Korean Consulate. He expressed that the remaining 600 arrested persons would refuse to cooperate unless the Police acceded to his request. This delayed the transfer. The Police immediately summoned the Police negotiators for assistance. The transfer could not resume despite more transit vehicles arrived.

101. At 8:15 am on 18 December, the Police negotiators arrived at the scene and negotiated with the Korean leader in Wan Chai Police Station. The leader hoped the Police could speed up the removal process, and enquired about the penalty of the offences concerned. He also requested to contact the South Korean Consulate and be allowed to enter and leave the detention area freely. The Police explained that he could not go freely without Police escort since he was under arrest. The Police promised to speed up the removal process and arrange for him to meet the staff of the South Korean Consulate. Later the leader met two Consulate staff. The Police bought bottled water, bread and cakes from nearby shops for the arrested persons. At about 10:00 am, the leader agreed to cooperate with the Police and arranged for the remaining arrested persons to board the vehicles. The removal resumed subsequently. At 1:00 pm, the Police delivered another batch of bottled water, biscuits and cakes to

the arrested persons. The last group of arrested persons was removed at 1:51 pm. During the whole process, the Police delivered bottled water and food to the arrested persons at Gloucester Road on four occasions and arranged for them to use the toilets in Wan Chai Police Station.

Part IV – Detention of Arrested Persons

102. All the arrested persons were first sent to the DPHA at the carpark of Kwun Tong Police Station for initial processing. They were then sent to the TDC in Kwun Tong Magistracy. When the TDC was full, the arrested persons would be sent to the detention facilities of other Police stations in regions in the following order: Kowloon East, Kowloon West, New Territories South and New Territories North. When the DPHA reached capacity, the arrested persons would be sent to two transit centres located in Kai Tak Operational Base and the Auxiliary Police Headquarters for temporary accommodation, pending transfer to the DPHA. This part of the report details the operation and conditions of these facilities.

Operation of the DPHA

103. At the midnight of 17 December, the DPHA commenced operation as directed by the HQCCC. The security platoon for the DPHA reported for duty at the Kwun Tong Police Station immediately, assisted by the uniformed officers of Kwun Tong Division and investigation teams who had received training in managing the DPHA. The four investigation teams, each comprising a Senior Inspector, two Sergeants and eight PCs (45 officers in total), reported to a Chief Inspector (CIP). They were

responsible for handling the arrested persons sent to the DPHA, while the security platoon was responsible for security outside the DPHA. Upon completion of procedures at the DPHA, the arrested persons would be sent to the TDC. The DPHA could accommodate over 200 arrested persons.

104. Serially-numbered Short Arrest Forms were used to record information of the arrested persons. Regrettably the forms were not issued in a chronological sequence. Thus the Police could not collate the total number of arrested persons processed by referring to the serial number of the forms completed. This caused difficulties later in counting the total number of arrested persons.

105. The DPHA commenced operation at around 1 am on 18 December. At daybreak, there were around 250 arrested persons at the DPHA. At 11:50 pm on 17 December, seven Korean-speaking interpreters arrived at the DPHA for duty. Four of them worked until the following morning. The other three worked until the midnight of 18 December. At 8 am and 5 pm on 18 December, one and three more Korean-speaking interpreters arrived for duty respectively. Three of them worked until the small hours of 19 December.

106. Arrested persons sent to the DPHA were arranged to wait at the waiting zone. The zone was barricaded by mill barriers and guarded by Police officers. A small number of the arriving arrested persons were emotive whilst being taken on board the vehicles and were thus handcuffed at the Gloucester Road detention area. Depending on individual circumstances, the Police officers removed the handcuffs after ascertaining that the arrested persons had calmed down. All arrested

persons then put on a wrist band written with the number of the Short Arrest Form for identification purpose. The arrested persons then waited at the waiting zone under the escort of the arresting officers. For security reasons, they were required to sit on the ground whilst waiting. The arresting officers conducted a frisk search on the arrested persons of the same sex to remove any articles of evidential value or which could be used as weapons. However, arrested persons were not required to remove their clothes for the search. Articles seized from arrested persons included a cutter, a softball bat and a plastic hose. Thereafter, the arrested persons were brought to the processing zone in batches. Every arrested person was given a bilingual “Notice to Persons under Investigation by, or Detained in the Custody of, the Police” in English and Chinese. Contents of the notice were explained to them through the interpreters. Then, each arrested person went through the four procedures of photograph taking, filling out of the Short Arrest Form and Proforma for Crime Officer, recording case exhibits and fingerprinting of the right-thumb. A number of arrested persons could be processed at the same time. After verification, the arrested persons were sent to the TDC for detention.

107. When the DPHA started operation, an Auxiliary Medical Service team went to the Kwun Tong Police Station immediately. One arrested person received treatment at the DPHA. Arrested persons expressing hunger or thirst were supplied with rice boxes and hot water. At 2 am on 18 December, about 200 blankets were delivered to the DPHA for distribution to the arrested persons. They were arranged to go to the toilet upon request and drinking water and biscuits were in constant supply. At 7:30 pm on 18 December, meal boxes were again sent to the DPHA.

108. The first batch of arrested persons sent to the DPHA, including 24 Koreans, were arrested in Ruttonjee, Queen Mary and Pamela Youde Nethersole Eastern Hospitals, and the Victoria Park. Communication problem arose when some of them refused to listen to the translation of the interpreters. Their incooperation made the filling out of the Short Arrest Form and Proforma for Crime Officer very time-consuming, taking 20 to 30 minutes to process each arrested person.

109. Later, the DPHA was notified that a large number of arrested persons would soon be sent there. When the arrested persons gradually arrived, officers responsible for processing them found it quite time-consuming to fill out the Proforma for Crime Officer. Therefore, the DPHA CIP requested the command centre to waive filling out the Proforma which was agreed. The CIP also arranged for a Korean-speaking interpreter to provide service to two to three arrested persons at the same time, and to read and explain the contents of the “Notice to Persons under Investigation by, or Detained in the Custody of, the Police” to the arrested persons collectively. These arrangements shortened the time required for processing one arrested person to about 15 minutes.

110. Later on, the number of arrested persons transferred to the DPHA gradually increased. Some of them were very emotive, and refused to cooperate with the Police and put up resistance. They also yelled noisily and incited the other arrested persons. In the interim, some of the arrested Koreans who had been processed refused to board the Police vehicles to leave the DPHA. Therefore, the DPHA CIP requested reinforcement and temporary suspension of the transfer of arrested

persons to the DPHA, until the processing of that batch of arrested persons was completed.

111. An eleven-year-old Korean boy (his guardian was a female arrested person) was amongst those sent to the DPHA. As the boy was not under arrest, no photograph or fingerprint was taken of him. Nor was he detained or handcuffed. He was accompanied by his guardian all the time. When the female arrested person was released from the DPHA in the evening of 18 December, the boy left with her.

112. At 4 am on 18 December, a group of people gathered outside the entrance of Kwun Tong Police Station in protest against the Police action. Their activity blocked the access of Police vehicles into the station. Some reporters gathered on the hillside near the Police station and some of the arrested persons began to make an uproar. Later, Kwun Tong Police Station activated the Station Defence Strategy to strengthen its security.

113. From 3 am to 5 am on 18 December, in response to a request from a group of lawyers, the DPHA CIP met three of their representatives. The three lawyers claimed to represent the Koreans arrested and requested to see them. However, they could provide only the name of one Korean and asked the CIP to confirm if the person was arrested. Having explained the circumstances of the DPHA, the CIP suggested the lawyers to see the arrested persons later after they were sent to the detention facilities. The CIP also promised to inform the lawyers of the detention locations of the arrested persons as soon as possible. Both parties agreed that one of the lawyers would be the contact person. Later, the CIP informed the lawyer by phone of the various detention

locations of some of the arrested persons.

114. The shortage of interpreters had hampered the smooth operation of the DPHA. Each arrested person had to provide information to enable the arresting officer to fill out the Short Arrest Form. However, some of the arrested persons were emotive, and they refused to cooperate and queried each step taken by the Police, e.g. photograph taking and fingerprinting. Sporadic chaos constantly occurred, and officers of the security platoon had to be deployed from time to time to prevent further disorders.

115. At a time when the vehicles could not be deployed on time, the arrested persons were held up at the DPHA for over an hour before being escorted to the TDC on the vehicles. When the TDC was nearing its maximum capacity of 220 persons, arrangements were immediately made to send the arrested persons to a total of 20 Police detention facilities in Kowloon East, Kowloon West, New Territories South and New Territories North regions. The DPHA was closed at 2 am on 19 December (Monday).

Transit Centres for Arrested Persons

116. As the DPHA was already full at around 6 am on 18 December and was not able to process the other arrested persons in time, the Police decided to set up two transit centres for accommodating the arrested persons temporarily before they were sent to the DPHA. The first transit centre was set up in Kai Tak Operational Base at 105 Concorde Road, and it takes about a 13-minute drive to the DPHA. The second

transit centre was situated in the Auxiliary Police Headquarters at 12 Wang Chiu Road, Kowloon Bay, and it takes about a 15-minute drive to the DPHA.

Transit Centre in Kai Tak Operational Base

117. The transit centre set up in the covered carpark of Kai Tak Operational Base could hold more than 100 arrested persons. It began operation at 6:30 am on 18 December. The centre had concrete external walls. A security platoon was responsible for external security. Four Korean-speaking interpreters arrived at around 7 am on 18 December to provide interpretation service. 116 arrested persons were sent to the centre at different times, beginning from 6:53 am, each under the escort of the arresting officer. The arrested persons were arranged to sit and wait on the ground of the carpark with none of them being handcuffed. The Police provided hot water, biscuits and cakes to the arrested persons at 10 am and made arrangements for them to use the toilet. Starting from 11:30 am, the arrested persons were sent to the DPHA in batches with the last batch leaving at 1:45 pm. The centre was closed at 2 pm on 18 December. During that period, the arrested persons remained calm. No lawyers went there to request to see the arrested persons.

Transit Centre in Auxiliary Police Headquarters

118. The transit centre situated in the Auxiliary Police Headquarters could accommodate more than 20 large-sized vehicles. It began to operate at around 10 am on 18 December with a security platoon providing external security. Two Korean-speaking interpreters arrived at around 11:35 am on 18 December to provide interpretation service.

From 10 am to 3 pm that day, 675 arrested persons were sent there in batches in 45 vehicles, waiting for transfer to the DPHA.

119. As the Auxiliary Police Headquarters had no concrete external wall and was only surrounded by 3-metre high railings, it was windier and colder. Therefore, the arrested persons were arranged to stay on the vehicles. Upon request, they were escorted by the Police officers to use the toilets at the headquarters block. At around 10 am on 18 December, the Police provided bottled water and bread to the arrested persons. At around 1 pm on the same day, bottled water, rice boxes, instant cup noodles, bread and biscuits were again provided. At around 5 pm on 18 December, a lawyer requested to see an arrested person and his request was acceded to. At 7:30 pm, rice boxes were again provided to all arrested persons. They were sent to the DPHA in batches with the last batch leaving at 11:38 pm on 18 December following which the transit centre was closed.

Temporary Detention Centre

120. The Temporary Detention Centre (TDC) was set up in Kwun Tong Magistracy at 10 Lei Yue Mun Road, and it takes about a 5-minute drive to the DPHA. The centre could hold about 220 arrested persons. It was under the command of an SP, supported by four security platoons (172 members in total) working in two shifts under the charge of a CIP. Two Korean-speaking interpreters arrived at the centre at 8:45 am and 5 pm respectively on 18 December to provide interpretation service. They worked until 2:30 am on 19 December. Another Korean interpreter was on duty from 5 pm on 19 December and worked until 1:15 am on 20 December. The TDC commenced operation on 17 December. An

Auxiliary Medical Service team was stationed there.

121. At the initial stage of the operation, the TDC commander already knew the centre could not accommodate all the arrested persons. As planned, he enquired of the Police stations concerned on their detention capacity in addition to the number of persons already held. He then informed the DPHA CIP of the detention capacity of each Police station to enable her to coordinate and send the arrested persons to different detention facilities.

122. Arrested persons arriving at the TDC got off at the underground security zone of the Kwun Tong Magistracy, attended by Police officers. Initially, the arrested persons sent there were all females. Before they were put into the cells, those with handcuffs were released of the restraint, and were subjected to a “frisk search” by female Police officers without removal of clothes. The whole searching process could not be seen by any male Police officers.

123. There were altogether 18 cells in the TDC, each ranging from 9 to 33 square metres and could accommodate 10 to 30 people. After the arrested persons had settled down in the cells, the Police officers recorded and sealed up their personal belongings before them. During the period 104 male and 121 female arrested persons were detained in the centre. Apart from 100 blankets kept in the TDC, another 400 blankets were sent to the centre for the use of the arrested persons. Apart from drinking water, the Police also provided breakfast to the arrested persons at 10:15 am on 18 December, while lunch and dinner were served at 12:50 pm and 6:15 pm respectively. The same three meals were also provided on 19 December.

124. When the TDC reached its detention capacity of 225 persons, the remaining arrested persons were sent directly from the DPHA to the Police detention facilities of Kowloon East, Kowloon West, New Territories South and New Territories North regions. The DPHA also informed the TDC the detention location of the arrested persons for the TDC to coordinate proper recording.

125. From 18 to 19 December, two arrested persons detained in the TDC received treatment from the Auxiliary Medical Service. Arrangements were also made for another 27 persons to go to United Christian Hospital for medical treatment.

126. From 3:30 am on 18 December to 8:35 pm on 19 December, arrangements were made for all 15 lawyers or legal representatives who went to the TDC to visit the arrested persons. Moreover, arrangements were also made for seven staff members from the South Korean Consulate, a staff member from the US Consulate and a staff member from the Japanese Consulate to meet the arrested persons. From 1 pm to 5:25 pm on 18 December, all 27 arrested persons' request to make phone calls were entertained.

127. One of the staff members of the South Korean Consulate claimed to have seen an allegation on the Internet about a Korean female farmer who was searched with all her clothes removed. The staff member arrived at the TDC at 6:25 pm on 18 December to meet three female arrested Koreans, including one designated by the staff member and two others selected randomly. After the meeting, the staff member informed the Police that the arrested persons were generally satisfied with the

present situation. However, a female arrested person claimed that she was searched by a female Police officer in front of other male Police officer(s) (but she was not required to take off her clothes). The staff member also said some arrested persons claimed of not being supplied with blankets and over-crowdedness of the cells. The Police promised to provide extra blankets and assured the staff member that the detention capacity of each cell was reasonable. The Police also informed him that none of the arrested persons detained in the TDC had to take off his/her clothes for the search and assured him that the search of the female arrested persons was not seen by any males.

128. Upon her release, a female arrested person complained to the TDC commander that she was rudely treated by Police officers in Wan Chai. Moreover, when she refused to be fingerprinted, Police officer(s) took her fingerprint by force. She said that she had complained to a female Police officer (believed to be the DPHA CIP) who promised to tell her the service number(s) of the Police officer(s) concerned later. However, the female Police officer did not keep her promise and so the arrested person lodged the complaint. The TDC commander explained that if she refused to cooperate in the fingerprinting process, Police officers had the authority to use reasonable force to take her fingerprint according to the laws of Hong Kong. He also gave the arrested person his name card and a Korean complaint form specially designed for the WTO Conference. The arrested person expressed satisfaction and left with her companions.

129. Bishop Joseph Zen of the Hong Kong Catholic Diocese visited the TDC and complained to the Police that the arrested persons were not supplied with food, water and blankets. He pointed out that three religious personnel were detained in the centre. The Police assured

Bishop Zen that the arrested persons were supplied with food, water and blankets. Investigation confirmed that the three persons mentioned by Bishop Zen were not detained in the TDC. The Police made enquiries with other formations but could not identify these three persons and their location of detention.

130. Two lawyers went to the TDC separately to request: (1) to witness of any interviews between the Police and the arrested persons detained at the TDC; (2) to inspect the cells; (3) the Police to provide a list containing the information of all the arrested persons to facilitate the lawyer concerned to find the clients. In response, the Police said that even if the lawyer concerned could not provide the name(s) of his client(s), they could arrange for him to meet the members of the organisation under detention if he could provide the name of the organisation that had retained him. The same could be arranged in respect of the lawyer's request to witness Police interviews of the arrested persons. The Police turned down the request to inspect the cells. The request for the provision of the list of all the arrested persons was also turned down as it might breach the Personal Data (Privacy) Ordinance, Cap. 486, Laws of Hong Kong.

Other Police Detention Facilities

131. When the TDC was full (with 225 detained persons), the DPHA arranged for the remaining arrested persons to be sent to the detention facilities in Kowloon East, Kowloon West, New Territories South and New Territories North regions. In addition, 23 arrested persons were immediately released or granted bail.

132. Before transferring the arrested persons to the Police stations/detention centres, the HQCCC had already informed the duty officers concerned that food had to be provided as soon as the arrested persons arrived, which the duty officers duly complied.

133. On arrival at the various Police stations/detention centres, the arrested persons were first searched to ascertain that no offensive weapons or articles causing danger to themselves or others were hidden. A “frisk search” was conducted for most of the arrested persons without the need to remove their clothes. Six of the arrested persons did not cooperate with the searching requirement, causing the Police officers to reasonably suspect that they might have hidden offensive weapons under their clothes. Therefore, these six arrested persons were required to remove their clothes next to the skin for the search. PGO 44-05 stipulates that “A search of any suspect, which involves the removal of clothing worn next to the skin, the removal of which may cause embarrassment, shall only be carried out in the privacy of a Police station, a Police launch or a location providing equal privacy to the suspect. This type of search shall be conducted only upon the direction of an officer of or above the rank of Sergeant who shall record the incident in the CIS or his Police notebook.” Such searches were all made according to the above mentioned PGO in a private place in the Police station (interview room).

134. All the arrested persons were then put into the cells. The cells in the 19 Police stations range from about 13 to 19 square metres in size. Four to ten people were detained in most of them. Only one of them held 20 people. There are altogether 12 cells in San Uk Ling Detention Centre. The cells range from about 21 to 25 square metres and can hold

25 to 31 people. On 18 December, 14 to 26 arrested persons were detained in each of the 12 cells.

135. All the duty officers arranged for the delivery of food to the arrested persons as soon as practicable. On 18 December, 26 arrested persons arrived at Tuen Mun Police Station as late as 11:50 pm. Although dinner time had well passed, the Police station still made special arrangement and distributed food to all the arrested persons after midnight.

136. Water, food and blankets were provided to the arrested persons detained in various Police stations and San Uk Ling Detention Centre. Sufficient tissue rolls and sanitary napkins were stored in all the detention facilities. The detained persons could ask the Police for their use. In some detention facilities, tissue rolls were already placed in the toilets inside the cells for the use of the detained persons.

137. Some lawyers visited a number of Police stations and requested to see the detained persons. The Police exercised flexibility in the arrangements as far as possible. Of the arrested persons detained in the 21 Police detention facilities, at least 202 of them met their lawyers in 11 Police stations. At Tsim Sha Tsui Police Station, a lawyer requested to see the arrested persons but was unable to give the names of his clients. Following discussion with the lawyer, the Police asked the 51 arrested persons detained thereat to ascertain if they were willing to see the lawyer. Three of the arrested persons expressed willingness to accept the legal service and arrangements were made for the meeting. A lawyer went to Tsz Wan Shan Police Station with two women and requested to see all the arrested persons, claiming that the two women were interpreters.

Although the lawyer could not provide the names of his clients, the Police still arranged for him to see three arrested persons. When the lawyer was preparing to meet the second arrested person, the duty officer found the identities of the female visitors suspicious and requested to see their personal documents. One of them produced a Hong Kong Identity Card while the other produced a Korean student card. When the Police further enquired with the lawyer on their identities, the lawyer admitted that he had given incorrect information concerning their identities and apologised. Despite the lawyer was still allowed to see the other arrested persons, the party chose to leave immediately. Moreover, at least 106 arrested persons were arranged to meet their consulate staff in six Police detention facilities as requested. The Police did not reject the arrested persons' requests for outside contacts. Arrested persons detained in the 21 Police facilities made a total of 125 local and long-distance calls. Three arrested persons requested to send e-mails and arrangement was made for them to send a total of five e-mails.

138. A total of 87 arrested persons detained in the 21 Police detention facilities requested for medical treatment. They were either sent to hospitals nearby or treated by the Auxiliary Medical Service stationed in Kwun Tong Police Station or Kwun Tong Magistracy. Two Thai arrested persons claimed to be AIDS patients. One was detained in Kwun Tong Police Station and the other in Mong Kok Police Station. The one detained in Kwun Tong Police Station had brought his own medicine. Before detention, he informed the Police officers that he was an AIDS patient and requested to take his medicine twice a day. In accordance with PGO 49-35, the Police sent him to the United Christian Hospital with his medicine for examination by the doctors. After examination, the doctor instructed that the arrested person could be

allowed to take his personal medicine according to the prescribed schedule. The medicine was provided to the arrested person as scheduled until his release. Through the interpreter, the arrested person detained in Mong Kok Police Station told the Police that he was an AIDS patient but he had not brought his own medicine. He requested treatment and was sent to Kwong Wah Hospital under Police escort at 9:38 pm on 18 December. The doctor did not prescribe any medicine after examination.

139. In order to ensure that all the arrested persons understood their rights and the Police investigation to be conducted, an Inspector was deployed to visit the various detention facilities on 18 and 19 December to inform the arrested persons once again through an interpreter: (1) the offences for which they were arrested; (2) that the investigation work would be conducted speedily; and (3) that they would be prosecuted by the Police within 48 hours if there was sufficient evidence or released otherwise. From 18 to 19 December, the Inspector visited a total of 11 Police stations and detention facilities. As some of the arrested persons were released beginning from the evening of 18 December, no people were detained in some of the Police stations by the time of his visit. Individual Police stations also asked for interpretation service from Korean-speaking interpreters on a need basis. From 19 to 18 December, such request was made by a total of seven Police stations and arrangements were made for Korean-speaking interpreters to offer assistance.

Conclusion

140. The Police had already made comprehensive arrangements in

advance for the handling of a large number of arrested persons. However, the number of arrests turned out to be massive with most of them only able to communicate in Korean. Moreover, some of the arrested persons adopted an uncooperative attitude, thereby delaying the removal and detention process. In handling the arrested persons, the Police had tried their best to take care of their rights and welfare. Drinking water and food were in constant supply to the arrested persons, hot food was provided as soon as practicable, and arrangements were also made for them to use the toilet. The investigation revealed there was no record of any arrested persons being handcuffed while using the toilet nor was there any Police assistance to remove their pants. Blankets were also provided to the arrested persons. Apart from exercising flexibility in arranging meeting with their lawyers, the Police were also mindful of the right of the arrested persons in making phone calls and sending e-mails. Any arrested person requesting medical treatment would either be treated by the Auxiliary Medical Service or sent to the hospital. These arrangements were the same as the normal Police detention procedures of arrested persons on a regular basis.

Part V – Release of Arrested Persons

141. At 2:50 am on 18 December, the Police announced the arrest of 1115 persons at Gloucester Road. With another nine arrests in Victoria Park and 29 arrests in the three hospitals, a total of 1 153 arrests were made (including 961 males and 192 females). Investigation coordinated by a Senior Superintendent was carried out immediately to ascertain if there was sufficient evidence to prosecute the arrested persons.

142. The investigating officers reviewed a total of 83 Police and TV news videos, and made enquiries with the front-line officers who had participated in the operation. There being no indication that any females had engaged in violence, the Police immediately started releasing the 192 female arrested persons from 9:20 pm on 18 December.

143. The investigating officers compared the assailants as captured in the videos with the photographs of the arrested persons. Eight photo albums of the male arrested persons were compiled with six copies made. A photo identification, conducted by a CIP at 12:30 pm on 19 December, was attended by four front-line officers who were involved in the confrontation. One Senior Inspector identified a Korean farmer who had discharged a fire extinguisher at the Police officers at the junction of Marsh Road and Lockhart Road. Another PC identified three arrested persons who had attacked the Police officers with wooden poles and mills barriers and threw mud at them. Another PC identified 10 arrested persons who had attacked the Police officers.

144. Preliminary legal advice was sought on 19 December. Acting on the advice of counsel from the Department of Justice (DoJ), a holding charge of “taking part in an unlawful assembly” was brought against the 14 identified arrested persons (11 Koreans, 1 Japanese, 1 Mainlander and 1 Taiwanese). They were brought before the Kwun Tong Magistracy in the evening of 19 December. Because the case was still being investigated, on the application of the prosecution, the case was adjourned until 2:30 pm on 23 December. All 14 defendants were remanded in Police custody.

145. There being insufficient evidence to prove that the remaining

arrested persons had committed any offences, they were released starting from 7:00 pm on 19 December.

Identification Parade

146. On 21 December, arrangements were made for the 14 defendants to take part in an identification parade, attended by two Inspectors and four PCs (excluding the four officers who took part in the photo identification on 19 December). However, the company which provided actors for identification parades could only provide Chinese actors. The Korean Consulate was not able to provide assistance, either. Since the Chinese actors looked obviously different from the Koreans and the Japanese, the defendants' legal representatives objected to their clients' participation in identification parades, unless suitable actors could be provided, so no identification parades were held for the Korean and Japanese defendants at this time. In the meantime, six officers viewed the identification parade in which two other defendants, a Chinese and a Taiwanese, participated. Neither of them was identified.

147. On 22 December, the Police made arrangements for six officers to attend a confrontation identification parade in which it was intended that the remaining 12 defendants, i.e. 11 Koreans and the Japanese defendant, would participate. This was objected by the defendants' legal representative, who suggested that the defence could arrange Korean actors for an identification parade. The Police agreed but requested that the actors should not be persons who had participated in the anti-WTO demonstrations.

148. On 23 December, the 14 defendants appeared in court again.

They were all granted bail and the case was adjourned to 30 December to enable the Police to continue their efforts to arrange an identification parade. Later the defendants' legal representative informed the Police that they were not able to arrange any Korean actors. After considerable Police effort, the actors' company was eventually able to arrange for a group of Japanese actors to take part in an identification parade on 29 December, in which it was intended that the Japanese defendant would participate. The parade was subsequently called off because some of the Japanese actors changed their minds and refused to participate in the parade. The investigating officers had sought assistance from the Japanese Consulate but to no avail. On 28 December, the investigating officers informed the defendants' legal representative of the details of their efforts to arrange an identification parade. The defendants' legal representative then offered to arrange actors to come from Korea, with expenses of air tickets and accommodation to be met by the Police. Bearing in mind the number of defendants, it was considered that this would entail bringing some 70 or 80 actors from Korea. Having discussed this matter with the DoJ on 29 December, it was decided that the Police should not shoulder these expenses, as it was difficult to justify the expenditure of such a large amount of public money, so the defence offer would be rejected.

149. On 30 December, the 14 defendants re-appeared in court. The case was further adjourned to 11 January 2006 to allow the Police to arrange a face-to-face group confrontation. On 4 January 2006, a CIP conducted a face-to-face group confrontation in the presence of the defendants' legal representative. Nine officers attended separately to view 12 defendants, i.e. the 11 Koreans and the Japanese defendant. Three of the defendants were identified, including one who attempted to

drag away the mills barriers used for cordoning in Central Plaza, another who kicked the Police officers near Central Plaza and attempted to drag the mills barriers away, and the third who attacked the Police cordon, threw mud at the Police officers and attacked them with a wooden pole.

Other Investigations

150. The investigating officers later made enquiry at the scene later but did not seize any exhibit relevant to the case since the area had already been cleaned up. They watched the CCTV tapes from the buildings around the confrontation scene and brought two officers who were on duty at the time to the Central Plaza to assist with the scene enquiry. The investigating officers watched four Police videos which recorded the confrontations occurring at the junctions of Marsh Road and Lockhart Road, Fleming Road and Harbour Road, and outside Central Plaza. One of the videos only recorded a person discharging a fire extinguisher at the Police officers without capturing his face clearly. The view in the other three videos was blocked by plants and the confrontation in Central Plaza could not be seen clearly, and only the confrontation at the junction of Fleming Road and Harbour Road was recorded.

151. On 6 January 2006, having completed their enquiries, the investigating officers sought legal advice from DoJ. Acting on legal advice, the Police charged the three defendants who had been identified, with “taking part in an unlawful assembly” outside Central Plaza, two of them were also charged with “assaulting police officers”. The charges against the remaining 11 defendants were to be withdrawn.

152. In the afternoon of 11 January 2006, DoJ, after further reviewing

all of the evidence, including all of the video tapes from various sources, further advised that the charge of “assaulting police officers” against two of the defendants should be withdrawn and that the remaining defendant should be charged with “taking part in an unauthorised assembly” instead of “taking part in an unlawful assembly”. When the case was brought up again in court on 11 January 2006, the prosecution withdrew the charges against 11 defendants. One of the defendants pleaded guilty of the charge of “taking part in an unlawful assembly”. However, he changed his plea to one of not guilty, following discussions with his legal representative, as he disagreed with the brief facts of case submitted by the prosecution. Another defendant pleaded not guilty to the charge of “taking part in an unlawful assembly”. The defendant who was charged with “taking part in an unauthorized assembly” initially pleaded guilty but later he also changed his plea to not guilty. The case was scheduled for trial at Fanling Magistracy between 1 and 7 March 2006.

153. Following a further thorough review of the prosecution evidence, particularly the testimony of a PC who had made a positive identification of the defendant charged with “taking part in an unauthorized assembly”, DoJ advised that there was insufficient evidence to proceed with the charge and offered no evidence against the defendant at the pre-trial review on 17 February 2006. The charge of “taking part in an unlawful assembly” against the other two defendants remained unchanged. The case was heard at Fanling Magistracy between 2 and 30 March 2006. In respect of one of the defendants the court ruled that there was no case to answer. The other defendant was acquitted after trial. The trial Magistrate considered that the evidence from the face-to-face group confrontation submitted by the prosecution was not of sufficient weight to prove beyond a reasonable doubt that the two defendants were two of a

number of persons who had attacked the Police officers. In the course of delivering his verdict, the Magistrate praised the Police several times for their excellent performance, great restraint and dedication in guarding the cordon during the disorder which occurred on this evening. In the face of violence, the Police did not retaliate with violence but stuck to their line.

Part VI – Other Issues of Public Concern

154. The public order events during the MC6 period, particularly the confrontations between the people concerned and the Police, were widely reported by the media. Many members of the public and organisations complimented the Police on its performance which had ensured the smooth conduct of the Conference, and the great restraint exercised by Police officers in face of the violent behaviour of some of the demonstrators. However, some NGOs expressed dissatisfaction and alleged the Police to have:

- (1) delayed the application of the protest activities against the WTO;
- (2) monitored instead of coordinated the arrangements for the procession routes and assembly venues;
- (3) suppressed the demonstrators with excessive force, including the use of a large amount of OC foam and super sock rounds;
- (4) arrested a large number of demonstrators without sufficient

evidence and removed the arrested persons slowly;

- (5) failed to provide the demonstrators with adequate food, water and blankets while detaining them at Gloucester Road, and rejected and ignored their requests to have medical treatment and relieve themselves;
- (6) detained the demonstrators overnight and deprived them of the right to participate in the procession on 18 December;
- (7) seriously infringed the basic human rights of the arrested persons during detention: stripping off their clothes for search; refusing to provide them with adequate clothes, blankets, food and water; overcrowding of the detention cells; rejecting and ignoring their requests to have medical treatment (e.g. AIDS patients were not allowed to take their own medicine); failing to explain to the arrested persons their rights and rejecting lawyers' visits; rejecting the arrested persons' requests to make phone calls to contact family members and friends.

155. Two NGOs made a number of allegations to the Security Panel of the Legislative Council in writing. The Police had requested these two organisations to provide further information (including witnesses) for follow-up action. There has been no reply up till the end of May 2006.

156. There were also members of the public who lodged complaints against the Police. The Complaints Against Police Office (CAPO) so far has received a total of seven complaints concerning the public order events during the MC6 period. The CAPO is conducting a full

investigation into three of them. The findings will be submitted to the Independent Police Complaints Council (IPCC) for consideration. Details of the complaints are listed as follows:

- (1) The complainant was a reporter. She complained that – (a) the Police sprayed OC foam and discharged a water cannon at her without prior warning at Hung Hing Road on 17 December 2005 (allegation of neglect of duty); (b) the Police caused damage to her camera while discharging the water cannon at her (allegation of unnecessary use of authority); (c) the Police did not allow her to return to the detention area after she went to the toilet at Gloucester Road on 18 December (allegation of unnecessary use of authority); and (d) the Police failed to provide the protestors with food and water at Gloucester Road on 18 December. The complainant withdrew the complaint on 14 January 2006 and the case has been submitted to the IPCC for scrutiny.
- (2) The complainant was a reporter. He complained that he was stopped by three plain-clothes officers and pushed by two of them, and was later assaulted by six to seven uniformed officers in anti-riot gears, while he was photographing at Gloucester Road on 17 December 2005 (allegation of assault). CAPO is now conducting a full investigation.
- (3) The complainant was a hair stylist. He complained that he was stopped by four to five plain-clothes officers and pushed by one of them at about 2:30 am on 18 December 2005 (allegation of assault). CAPO has requested the complainant

in writing to provide further information but no reply has been received. The case is classified as “not pursuable” and has been endorsed by the IPCC.

- (4) The complainant was a Korean male who was released by the Police following detention. He complained by e-mail that (a) he did not know why he was arrested and why the Police handcuffed his hands in the front instead of in the back, and that the handcuffs were too tight and hurt him (allegation of neglect of duty); (b) he was detained for more than an hour while many reporters took photos of him causing him embarrassment (allegation of unnecessary use of authority); (c) he opined that the other detained Koreans should be released without delay (allegation of Police procedures). CAPO has written to the complainant to explain the working procedures of the Police and to ask him to provide further information to which he has not responded. The case is classified as “not pursuable” and the IPCC has been informed.
- (5) The complainant was a lawyer. He visited the anti-WTO demonstrators detained in a Police station in the capacity of a legal representative. He complained that (a) the Police only permitted him to visit two detained persons and did not allow him to visit the others before the list of the detained persons was available (allegation of unnecessary use of authority); (b) the Police did not provide any interpreters for the detained persons, thus depriving them of the right to request for a legal representative (allegation of Police procedures); (c) the Police did not allow him to visit the detained persons unless he could

give their names (allegation of unnecessary use of authority). CAPO is now conducting a full investigation.

(6) The complainant was a researcher. He complained that on 17 December 2005, the Police used CS grenades against the public and innocent demonstrators without adequate warning. After inhaling the CS smoke he felt uncomfortable (allegation of neglect of duty). CAPO is now conducting a full investigation.

(7) The complainant stated that (a) when she participated in the anti-WTO procession in Wan Chai on 17 December 2005, she was dissatisfied with the actions of the Police such as using CS grenades without prior warning (allegation of neglect of duty); (b) the Police did not allow the demonstrators to leave the detention area (allegation of unnecessary use of authority); (c) the Police ignored the demonstrators' requests for food and blankets and failed to respond to the questions of the demonstrators at the scene (allegation of neglect of duty); (d) the Police comments in the press conference about providing food, water and toilet facilities were misleading (allegation of misconduct). CAPO requested the complainant twice to provide further information but there was no response. The complaint is classified as "not pursuable" and the IPCC has been informed.

157. Parts 1 to 5 of this report have addressed the allegations made by the NGOs on various issues in detail. This part focuses on other issues of public concern.

Use of Force

158. The use of force during the confrontations between the Police and the demonstrators has been elaborated in Part 2 of the report and will not be repeated here. However, it is useful to reiterate that the Police have been upholding the principles of “exercising maximum restraint” and “using minimum force”, and the use of force depended on the conduct of the people concerned. The trial Magistrate of the case of unlawful assembly of the Koreans pointed out that the Police had exercised extreme restraint in handling the disorder and only resorted to shields and OC foam in defence without returning violence for violence.

159. The Police had all along deployed negotiators to contact the demonstration organisers to render assistance, with a view to ensuring the freedom of expression by the demonstrators and the peaceful conduct of the demonstrations while maintaining public peace and order. Subsequently, when some of the demonstrators charged at the Police cordon and resorted to violence, the Police used the shield tactics to fend off the attack as far as possible. When the people concerned escalated their violence, the Police had no alternative but to use a higher degree of force such as OC foam and Police batons to stop further attacks.

160. On 17 December, some of the demonstrators attacked the Police cordon on a massive scale and used potentially fatal weapons like long wooden poles, metal bars and mills barriers. The use of OC foam and batons failed to stop them effectively, and the Police escalated the degree of force used which was limited to fire hoses, CS grenades and a water jet backpack. Only when individuals attacked and caused the Police

officers serious injury with wooden poles did the Police fire super sock rounds to hold them back and prevent more officers from being injured. All evidence showed that the Police used force with extreme restraint and the force used was absolutely necessary and proper.

Arrest Action

161. Although some of the demonstrators charged at the Police cordons on 13, 14 and 16 December resulting in Police injuries, the Police did not take any arrest action. Instead negotiators were deployed to talk to the demonstration organisers to render assistance. In fact, the Police had throughout been committed to safeguarding the demonstrators' right to freedom of expression and holding peaceful public events. Regrettably, some of the demonstrators charged at the Police cordon on a massive scale on 17 December and launched violent attacks against the Police officers, resulting in numerous injuries and bringing the traffic in Wan Chai area to a complete standstill. This not only violated the laws of Hong Kong, but also went far beyond the acceptable realms of a peaceful demonstration. The Police had no choice but to adopt arrest action.

162. Parts 2 and 3 of the report elaborated on the justifications and process of the arrest of over 1 000 people by the Police on 18 December. It must be emphasised that the Police arrested these people based on a reasonable belief that they had violated the laws of Hong Kong in taking part in an unlawful assembly and attacking Police officers, as well as seriously jeopardising public safety. The arrest action did not aim to prevent the arrested persons from participating in the procession held on 18 December. In fact, the HKPA on 17 December also publicly admitted that the demonstrators were "out of control".

163. The prosecution of those concerned was based on the fact that DoJ considered there being sufficient evidence in support of a reasonable prospect of conviction. Article 63 of the Basic Law stipulates that the Department of Justice shall control criminal prosecutions, free from any interference. Prosecutions arising from the MC6, like any other prosecutions, were initiated based on prevailing prosecution guidelines, which require sufficient evidence to provide a reasonable prospect of conviction.

Detention

164. The arrest action on 18 December was the biggest single arrest action ever conducted by the Police. Despite necessary prior preparations, the need to handle such a large number of arrested persons within a short period of time caused immense pressure on detention facilities, interpreters, vehicles and other supporting facilities such as the arrangements for food and toilet. Moreover, most of the arrested persons did not speak Chinese or English and some refused to cooperate with the Police. The Police had tried their best to safeguard the fundamental rights of the arrested persons in informing them of the offences they had committed at the scene. Since the Police were unable to find out all the personal particulars and nationalities of the arrested persons at Gloucester Road, some of them might not be able to understand the Police message during the arrest.

165. The shortage of interpreters prevented the Police from explaining individually to each arrested person at the DPHA, yet the Police adopted appropriate measures to explain their rights to them collectively. A

dedicated officer was also sent to visit all detention facilities later to inform them again of the offences for which they were arrested and their rights.

166. The Police were mindful of the need of the arrested persons in relation to food, drinking water, blankets and using toilets. Food and water were provided repeatedly to the arrested persons detained at Gloucester Road and all detention facilities.

167. There were isolated cases of over-crowdedness in the detention facilities until further arrangements were made to reduce the number of persons detained in each cell. These isolated incidents were unsatisfactory, but it should be noted that all female arrested persons were released starting from 9:20 pm on 18 December. As for the male arrested persons, except for the 14 being prosecuted, the remaining were released starting from 7:00 pm on 19 December.

168. In conclusion, although the Police arrangements in notifying the arrested persons of their rights and detention were not perfect, the Police had made their best efforts to safeguard the reasonable protection of the rights of the arrested persons.

Interview with Lawyers

169. After the arrest action on 18 December, some lawyers visited the detention facilities and requested to interview the arrested persons. According to the Police internal guidelines, lawyers will only be allowed to see the arrested persons under the latter's request or with the consent of the arrested persons. In case the request for a legal interview was not

made by the arrested person, it is a normal Police practice to require the lawyer concerned to name the arrested person to be interviewed or the third party who had retained him. During the MC6 period, although many of the lawyers could not provide the names of their clients and the Police could not ascertain whether they were retained by a third party to represent the arrested persons, most Police officers exercised flexibility and allowed the lawyers to see the arrested persons after confirming their identity.

170. The Police had received a complaint about the rejection of a lawyer's request to meet the arrested persons. CAPO is now conducting a full investigation.

Search

171. Force Procedures Manual 49-04 stipulates that the Duty Officer is to search a detained person or authorise the search, prior to securing him in a temporary holding area or cell block to ensure that the detained person does not escape; assist others to escape; injure himself or others; destroy or dispose of evidence; and commit further crime. Any search involving the removal of clothing next to the skin, which may result in embarrassment, is to be conducted in accordance with PGO 44-05, which requires the search to be carried out only in the privacy of a Police station and upon the direction of an officer of or above the rank of Sergeant. During the period of detention, Police officers conducted a frisk search on the majority of the arrested persons with only six male arrested persons searched with the removal of their clothing worn next to the skin. The search was fully justified and conducted in accordance with the provisions of PGO in a place away from the public view.

Assault Complaints

172. In the early morning of 18 December 2005, an arrested Korean woman told the DPHA CIP through an interpreter that she was hit once on the face by a Police officer when being taken away from Wan Chai to board a Police vehicle. She requested to identify the officer but could not provide any further information. The CIP could not identify the Police officer concerned after an initial investigation. She told the Korean woman that she would refer her complaint to another unit for follow-up action if she so wished, but the Korean woman did not make any further request. The woman related the case to the TDC Commander again later. The Commander explained to her the complaint against Police mechanism and procedures in detail and gave her a complaint form with Korean translation specially designed for the WTO Conference. The Korean woman was satisfied and departed with her companions. She did not lodge any formal complaint.

173. The Police received two assault complaints which occurred on 17 and 18 December 2005. Both complainants were neither the demonstrators nor arrested persons. CAPO is now conducting a full investigation into one of the complaints and the other one is classified as “not pursuable” because the complainant did not provide further information. This classification has been endorsed by the IPCC.

Part VII – Lessons Learnt

174. Although the Police had made much preparation for possible

large-scale arrests during the MC6 period, the number of persons arrested on 18 December was so massive that it created immense pressure on the Police. The supporting facilities, including interpretation service, collation of detention locations, vehicle deployment, and arrangements for meals, toilets and blankets, etc., were all stretched.

175. After reviewing the deployment, operation and supporting arrangements during the MC6 period, the Police considered that the following areas needed improvement:

- (1) interpretation service
- (2) handling of arrested persons
- (3) collation of detention locations
- (4) vehicle deployment
- (5) supporting service (including arrangements for meals, toilets, blankets, etc.)
- (6) evidence gathering

Interpretation Service

176. Although the Efficiency Unit took up the recruitment of interpreters, especially Korean-speaking ones, the result was not satisfactory. The Police had tried other means such as contacting all court interpreters, and seeking assistance from Korean-speaking tourist

guides and a local lecturer, as well as the Korean Consulate. Despite all these efforts, only 32 Korean interpreters were recruited who were however not available everyday during the MC6 period. Since the Police Force was not the only department which required Korean interpretation service, the number of interpreters on duty each day was barely enough to handle the routine public order events and to assist Police communication with the Koreans during small-scale confrontations.

177. On 17 and 18 December, over 1 000 people were arrested including 996 Koreans. The shortage of Korean interpreters was exacerbated. Not only did it take the Police a longer time to arrest and remove the arrested persons, it also significantly increased the time required to process the arrested persons in the DPHA, especially the time spent in explaining their rights, enquiring about their personal information and filling out the Short Arrest Form. To minimise the need for Korean interpreters, Police officers of the DPHA adopted flexible measures by suspending the procedure of filling out the Proforma for Crime Officer and explaining the rights to the arrested persons collectively. However, when the arrested persons refused to cooperate, the processing time would correspondingly be lengthened.

178. The Government could not control the number of Korean interpreters recruited. With hindsight, the problem could be mitigated by the advance translation of some documents, e.g. “Notice to Persons Under Investigation by, or Detained in the Custody of, the Police” and Short Arrest Form into Korean and other languages for distribution to the arrested persons. This allows the foreigners to have a better understanding of their rights and the information required by the Police.

In addition, printing leaflets in different languages in advance to explain the procedures to be carried out by the Police and the reasons for carrying them out could also be considered. This helps reduce the need for interpreters and speed up the processing of the arrested persons.

Handling of Arrested Persons

179. On 18 December, all 1 153 arrested persons had to be sent to the DPHA in Kwun Tong Police Station for initial processing, which suffered delays due to a range of reasons. As a result, a large number of arrested persons were held up and finally two transit centres were set up for their temporary accommodation. This arrangement undoubtedly did not fulfill the intended purpose of the DPHA. Besides, the delay in processing the arrested persons might also cause their discontent, putting more pressure on manpower for security.

180. The Police could consider setting up more than one DPHA to speed up the processing of the arrested persons depending on the prevailing circumstances.

Collation of Detention Locations

181. In the small hours of 18 December, the Police arrested a large number of people and sent them in batches to the DPHA as soon as practicable. Since the arrested persons had to be removed from the scene of arrest (i.e. Gloucester Road) as soon as possible, the Police did not record their personal details. On arrival at the DPHA, the arresting officers filled out a Short Arrest Form for each arrested person to record his/her information and the details of the arrest, which was then faxed to

the PEU for record. Since the forms were faxed to the PEU immediately on completion, they did not contain the information on where the arrested persons were subsequently transferred. As a result, the PEU failed to collate as soon as possible the information on the locations of where the arrested persons were detained. Furthermore, the officers at the DPHA were unable to compile a full list of the arrested persons as they were busy with the processing of the arrested persons. Thus the PEU and the other Police formations could not collate the full details of the arrested persons, including their whereabouts, in a timely fashion.

182. Most concerned parties, including lawyers, enquired with the DPHA or the TDC about the information of the arrested persons. However, neither of the facility could tell immediately where the person concerned was unless his/her Short Arrest Form had been completed. In future, where the number of people arrested was large, thereby entailing a longer processing time, the Police could consider setting up a central contact point to facilitate enquiries made by the parties concerned (including those from the lawyers) about the information and whereabouts of an arrested person. It is suggested that the function of the PEU should be expanded with enquiry hotlines set up and manned by designated Police officers to assist in tracing the whereabouts of the arrested persons.

183. In respect of filling out and delivering the Short Arrest Form, the Police could consider speeding up the transmission of information to the PEU by the DPHA officers through networked computers. Where necessary, more than one DPHA should be set up to allow the PEU to obtain the number of the arrested persons and the relevant information readily.

184. If the arrested persons were sent to different places for detention, officers should be deployed to record such details, which should be sent to the PEU for processing as soon as possible to facilitate enquiries made by the parties concerned.

185. The Police will consider combining the Short Arrest Form and the Proforma for Crime Officer into one document to save completion time.

Vehicle Deployment

186. During the MC6 period, the Police arranged six government vehicles to transport the arrested persons, had 30 government vehicles on reserve, and contracted a private coach company to supply additional coaches. These added up to a total capacity of 1 725 people. Since the removal involved transporting both the arrested persons and the arresting officers, any hiccups in the process, e.g. the arrested persons had to wait on the vehicles because the DPHA was full, the deployment of vehicles would be seriously affected. This happened at about 5:30 am on 18 December. Some vehicles had to wait outside the DPHA as they could not enter the area. That morning, many of the arrested persons had to be transported to the Kai Tak Operational Base and the Auxiliary Police Headquarters where they were held waiting. As such the vehicles were unable to return to Wan Chai to transport the other arrested persons as soon as possible.

187. Although the Police arranged for reserve vehicles to transport the arrested persons in Wan Chai as quickly as possible, five of them provided by the Correctional Services Department came from Tai Lam

Correctional Institution and Stanley Prison, with the rest from Chai Wan and the Police College in Wong Chuk Hang. As for the 13 coaches provided by the coach company, four came from Yuen Long and Shatin, one from Lantau. This added to the delay of removing the arrested persons. The Police will consider arranging the reserve vehicles to park in the vicinity of the operational area to facilitate the prompt transport of the arrested persons.

Supporting Service (Including Arrangements for Meals, Toilets, Blankets, etc)

188. The Police provided the approximately 1 000 people contained at Gloucester Road with a constant supply of drinking water and food, albeit some of them refused to accept the provisions. Despite the Police did not receive any requests from the people concerned for clothes or blankets, given the cold weather in the evening of 17 December and the long time taken to remove the large number of arrested persons, the Police should have considered providing hot meals and blankets to the arrested persons at Gloucester Road. The setting up of mobile toilets at Gloucester Road should have also been considered. The Police will review these issues to make sure that improvement will be made in similar operations in the future. Food and blankets were arranged as soon as possible in the DPHA and all other detention facilities.

Evidence Gathering

189. Over 1 000 people were arrested on 17 and 18 December, including many who had attacked the officers at the Police cordons, resulting in many officers being injured. At the end the DoJ could only prosecute

three persons after reviewing the evidence collected by the Police. This was mainly due to the fact that the Police did not take immediate arrest action during the attacks. In addition, the scene was chaotic (the sky was dark, the area was filled with CS smoke and the view was blocked by many obstacles at the scene), and hence the officers responsible for video-taping could not gather useful evidence to support the charges against the individuals. The Police will strengthen their capability to collect evidence in similar operations in the future.

190. Taking immediate arrest action at the scene was not without difficulty. Besides stirring up the emotion of the people concerned, the arresting officers would also be vulnerable to attacks. Deploying the officers manning the cordon to take arrest action might also give the demonstrators a chance to break through the cordon, resulting in escalated confrontations and more injuries. In considering these factors, the Police focused on maintaining the integrity of the cordon and used CS smoke to disperse the crowd when being attacked, which were in fact the most appropriate tactics.

191. In respect of the tendering of evidence, where there is no other independent evidence to support the charge(s), the Police recognise that face-to-face confrontation due to insufficient actors is not a satisfactory arrangement. The Police will avoid using face-to-face confrontation as evidence as far as possible unless there is no other alternative.

Part VIII – Conclusion

192. The Police clearly understood that they were going to face an

arduous task and a formidable challenge when they knew the MC6 would be conducted in Hong Kong. The Police took the task very seriously and devoted every effort to prepare for the challenge. With a view to striving to do better, preparation work began as early as in 2003 and was carried out in full speed in the approach of the MC6.

193. During the HKMC period, the Police made its best efforts to facilitate the smooth conduct of all peaceful demonstrations. The use of force for the purpose of maintaining public order was fully justified and the Police upheld the principles of “exercising maximum restraint” and “using minimum force” throughout. The arrests made were based on a reasonable belief that the people concerned had violated the laws of Hong Kong. Moreover, their behaviour had also gone far beyond any acceptable limits of a peaceful demonstration. During detention, the Police did not neglect the provision of food, drinking water and blankets for the arrested persons, and arranged them to use the toilet. Due to a range of reasons, the Police needed a longer period of time to remove the arrested persons held in Gloucester Road. However, in the face of the large number of arrested persons, the Police made their best efforts to ensure the protection of their rights. All searches of the arrested persons were conducted in accordance with laid down Police procedures. All six searches involving the removal of clothing worn next to the skin were conducted on the basis of reasonable suspicion and were justified. The arrested persons were allowed to make outside contacts and meet their consulate staff. The Police also exercised flexibility in arranging lawyers to interview the arrested persons. Although the Police might not be perfect in all these arrangements, they had tried their best as far as possible. The Police had conducted a review and identified areas of inadequacies, for example, shortage of interpreters, failing to translate

some of the documents into Korean and different languages in advance, failing to provide hot meals and blankets to the arrested persons at Gloucester Road, taking a long time to mobilise the reserve vehicles, failing to compile a full list of the arrested persons as early as possible and difficulties with tendering evidence. The Police have made recommendations for follow up action on these issues.

194. The Police operation throughout the MC6 period, whilst not flawless, was considered very successful as a whole. The Conference was conducted without interference and the majority of the public order events were held smoothly.

195. After the MC6, many members of the public praised the Police for their excellent work. According to the public opinion survey conducted by the Public Opinion Programme of the University of Hong Kong on 17 March 2006, the public's level of satisfaction with the Police is 81.7%, which is the highest recorded after the reunification in 1997. This was considered mainly contributed by the outstanding performance of the Police during the MC6 period. The Force was appreciative of the public understanding and indulgence on the inconvenience caused by the Police deployments and during the discharge of duties by Police officers, and their support to the Police.

196. In his judgement, the trial Magistrate for the case of unlawful assembly involving the Korean farmers confirmed the people concerned did take part in an unlawful assembly and attacked the Police officers repeatedly with various objects. He praised the Police officers many times for their devotion to duty and measured response to the disorder on 17 December 2005. Even though the people concerned continued to

batter the Police cordon, the Police still maintained their unity and upheld their discipline to work their best to discharge their duty. They acted in a very tolerant manner and did not retaliate with violence in face of violence. The Magistrate commended the officers for their outstanding performance and courage in tackling the anti-WTO demonstrations and the radical actions of some of the demonstrators.

197. The Director of Public Prosecutions also reiterated that the prosecution of those concerned was based on the fact that DoJ considered there being sufficient evidence in support of a reasonable prospect of conviction.

198. Regardless, the Police have gained valuable experience from the operation in many aspects. This will enhance the effective execution of similar Police operations in the future. The Police will take follow-up actions on the issues and recommendations made in the report.

**Information Requested by Members
at the Meeting on 7 February 2006**

At the meeting on 7 February 2006, the Administration made an initial report to Members on the security arrangements for the Sixth Ministerial Conference of the World Trade Organization. This paper provides responses to/information on the three requests made by Members, including -

- (a) provision of information on the prosecutions instituted by other jurisdictions holding international conferences and the prosecution results;
- (b) provision of the “Rules and Directions for the Questioning of Suspects and the Taking of Statements” promulgated by the then Secretary for Security in 1992; and
- (c) advice on whether there exist any guidelines on the use of force for different levels of disorder.

Prosecutions Instituted by Other Jurisdictions holding International Conferences

2. In recent years, indications are that anti-globalisation organizations frequently hold violent protests against major international conferences. More radical ones include the following four incidents:

- (1) The Third Ministerial Conference held in Seattle in 1999 - 631 persons were arrested with 26 of them prosecuted. The prosecution results are not known.
- (2) The World Bank - International Monetary Fund Forum on Supporting Comprehensive and Country-led Poverty Reduction Strategies held in Washington, D.C. in April 2000 - 1 300 persons were arrested. The number of people

prosecuted and the prosecution results are not known.

(3) The Annual Meeting of the International Monetary Fund held in Prague in September 2000 - Over 900 persons were arrested, including 386 foreigners. 25 of them (including 4 females) were charged with offences which included assaulting a public official, disorderly conduct and damaging property. The prosecution results are not known.

(4) The G8 Summit held in Gleneagles, Scotland in 2005 - 355 persons were arrested. At least 179 of them were prosecuted, including 25 convictions up to May 2006.

3. More details are set out in Part 1 of the Police After Action Review Report (General Security Arrangements).

“Rules and Directions for the Questioning of Suspects and the Taking of Statements”

4. The “Rules and Directions for the Questioning of Suspects and the Taking of Statements” were promulgated by the then Secretary for Security in 1992 to provide guidelines for law enforcement officers in questioning suspects and taking statements. A copy is attached at the **Appendix**.

Guidelines on the Use of Force

5. The principles on the use of force by the Police are in line with the guidelines of the United Nations. Police General Orders (PGO) 29-01 “Use of Force”¹ stipulates the principles on the use of force. The

¹ PGO 29-01 “Use of Force” stipulates the principles on the use of force - “A police officer shall display self-discipline and exercise a high degree of restraint when dealing with the public and shall not resort to the use of force unless such action is strictly necessary and he is otherwise unable to effect his lawful purpose. Police officers shall identify themselves as such and, when circumstances permit, a warning shall be given of the intention to use force and of the nature and degree of force which it is intended to use. Persons shall be given every opportunity, wherever practicable, to obey police orders before force is used. The principle governing the use of force is that only the minimum force necessary to achieve the purpose may be used and once that purpose has been achieved, the use of such force shall cease. The force used must be reasonable in the circumstances.”

details are set out in Part 2 of the Review Report.

6. In order to deal with any possible confrontations during the MC6 period, the Police had repeatedly instructed front-line officers in internal briefings to use different tactics and degrees of force in accordance with the prevailing circumstances. The briefings reiterated the salient points of PGO 29-01 "Use of Force" and reminded front-line officers to avoid over-reactions to any provocation in interdicting unlawful activities.

7. Front-line officers are reminded time and again to use different tactics in dealing with different degrees of violence. The lowest level of force shall be used if the situation so warrants and the force used ultimately shall depend on the prevailing circumstances. The use of such force shall cease once the intended purpose has been achieved.

8. In dealing with non-compliance with the agreed arrangements, the Police will first issue verbal advice or deploy police negotiators for assistance. Where the situation so warrants, mills barriers shall be used to separate the relevant persons. In the face of violence, the Police will adopt a defensive strategy using mainly shield tactics to block off the relevant persons.

9. A higher degree of force such as Oleoresin Capsicum foam and baton shall be considered only when officers are being charged at or attacked and there are no other effective means to resist and stop the demonstrators. Field commanders may consider using other types of force such as super sock rounds if the relevant persons escalate their violence which may cause serious bodily harm to Police officers or any other persons. Prior to the use of force, the Police should give verbal warnings, display banners or hand signs where circumstances permit.

Security Bureau
Hong Kong Police Force
June 2006

GAZETTE (SUP 5) VAX 9255//C082-TIT

**RULES AND DIRECTIONS FOR THE QUESTIONING OF
SUSPECTS AND THE TAKING OF STATEMENTS**

RULES AND DIRECTIONS FOR THE QUESTIONING OF
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RULES AND DIRECTIONS FOR THE QUESTIONING OF
SUSPECTS AND THE TAKING OF STATEMENTS

2 October 1992

Notice is hereby given that with effect from 1 October 1992, the Secretary for Security promulgated the following Rules and Directions for law enforcement officers in the Royal Hong Kong Police Force, the Customs and Excise Department, the Immigration Department and the Independent Commission Against Corruption to follow in questioning suspects and taking statements:—

NOTE

These Rules do not affect the principles

- (a) That citizens have a duty to help a police officer to discover and apprehend offenders;
- (b) That police officers, otherwise than by arrest, cannot compel any person against his will to come to or remain in any police station;
- (c) That every person at any stage of an investigation should be able to communicate and to consult privately with a solicitor or barrister. This is so even if he is in custody, provided that in such a case no unreasonable delay or hindrance is caused to the processes of investigation or the administration of justice by his doing so;
- (d) That when a police officer who is making enquiries of any person about an offence has enough evidence to prefer a charge against that person for the offence, he should without delay cause that person to be charged or informed that he may be prosecuted for the offence; and
- (e) That it is a fundamental condition of the admissibility in evidence against any person, equally of any oral answer given by that person to a question put by a police officer and of any statement made by that person, that it shall have been voluntary, in the sense that it has not been obtained from him by fear of prejudice or hope of advantage, exercised or held out by a person in authority, or by oppression.

That principle set out in paragraph (e) above is overriding and applicable in all cases. Within that principle the following Rules and Directions are put forward as a guide to all police officers conducting investigations. Non-conformity with these Rules and Directions may render answers and statements liable to be excluded from evidence in subsequent criminal proceedings.

RULES

I. When a police officer is trying to discover whether, or by whom, an offence has been committed he is entitled to question any person, whether suspected or not, from whom he thinks that useful information may be obtained. This is so whether or not the person in question has been taken into custody so long as he has not been charged with the offence or informed that he may be prosecuted for it.

II. As soon as a police officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offence, he shall caution that person or cause him to be cautioned before putting to him any questions or further questions, relating to that offence.

The caution shall be in the following terms:—

"You are not obliged to say anything unless you wish to do so but what you say may be put into writing and given in evidence."

When after being cautioned a person is being questioned, or elects to make a statement, a contemporaneous record shall be kept, so far as is practicable, of the time and place at which any such questioning or statement began and ended and of the persons present.

III. (a) Where a person is charged with or informed that he may be prosecuted for an offence he shall be cautioned in the following terms:—

"Do you wish to say anything? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence."

(b) It is only in exceptional cases that questions relating to the offence should be put to the accused person after he has been charged or informed that he may be prosecuted. Such questions may be put where they are necessary for the purpose of preventing or minimizing harm or loss to some other person or to the public or for clearing up an ambiguity in a previous answer or statement.

Before any such questions are put the accused should be cautioned in these terms:—

"I wish to put some questions to you about the offence with which you have been charged (or about the offence for which you may be prosecuted). You are not obliged to answer any of these questions, but if you do the questions and answers will be taken down in writing and may be given in evidence."

Any questions put and answers given relating to the offence must be contemporaneously recorded in full and the record signed by that person or if he refuses by the interrogating officer.

- (c) When such a person is being questioned, or elects to make a statement, a contemporaneous record shall be kept, so far as is practicable of the time and place at which any questioning or statement began and ended and of the persons present.

Written Statements

IV. All written statements made after caution shall be taken in the following manner:—

- (a) If a person says that he wants to make a statement he shall be told that it is intended to make a written record of what he says. He shall always be asked whether he wishes to write down himself what he wants to say; if he says that he cannot write or that he would like someone to write it for him, a police officer may offer to write the statement for him. If he accepts the offer the police officer shall, before starting, ask the person making the statement to sign, or make his mark to, the following:—
“I,, wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence.”
- (b) Any person writing his own statement shall be allowed to do so without any prompting as distinct from indicating to him what matters are material.
- (c) The person making the statement, if he is going to write it himself, shall be asked to write out and sign before writing what he wants to say, or before any questioning, the following:—
“I make this statement of my own free will. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence.”
- (d) Whenever a police officer writes the statement he shall take down the exact words spoken by the person making the statement, without putting any questions other than such as may be needed to make the statement coherent, intelligible and relevant to the material matters: he shall not prompt him.
- (e) When the writing of a statement by a police officer is finished the person making it shall be asked to read it and to make any corrections, alterations, or additions he wishes. When he has finished reading it he shall be asked to write and sign or make his mark on the following Certificate at the end of the statement:—
“I have read the above statement and I have been told that I can correct, alter or add anything I wish. This statement is true. I have made it of my own free will.”
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RULES AND DIRECTIONS FOR THE QUESTIONING OF
SUSPECTS AND THE TAKING OF STATEMENTS

- (f) If the person who has made a statement refuses to read it or to write the above mentioned Certificate at the end of it or to sign it, the senior police officer present shall record on the statement itself, and in the presence of the person making it, what has happened. If the person making the statement cannot read, or refuses to read it, the officer who has taken it down shall read it over to him and ask him whether he would like to correct, alter or add anything to what has been recorded and to put his signature or make his mark at the end. The police officer shall then certify on the statement itself what he has done.

Interview Records

- V. The questioning of suspects shall be recorded in the following manner:—
- (a) Accurate records must be made of each interview with a person suspected of an offence.
 - (b) If an interview with a suspect takes place in a police station, or other premises providing reasonable privacy and facilities for such interview, a contemporaneous written record of the interview must be made. The only exception to this rule will be where equipment is available to record the interview by mechanical means.
 - (c) Where a contemporaneous written record of an interview has been made, it must immediately after completion be read over to the suspect, and he should be given the opportunity to read it. The suspect must also be given an opportunity to make any corrections alterations or additions he wishes to the record, and afterwards he should be invited to write and sign the following Certificate at the end of the record:—
 "I, have read the above record of interview, consisting of pages. It is an accurate record of questions asked, and answers I provided."

(Signed).

If the suspect cannot read, or refuses to read the record, or to write and sign the certificate, the senior officer present shall record within the record of interview, and in the presence of the suspect, what has happened. Nothing recorded in a record of interview shall be obliterated by either the interviewing officer or the suspect. The record must accurately reflect the total of what occurred during the interview.

VI. If at any time after a person has been charged with, or has been informed that he may be prosecuted for an offence, a police officer wishes to bring to the notice of that person any written statement made by, or record of an interview with, another person, who in respect of the same offence has also been charged or informed that he may be prosecuted, he shall hand to that person a true copy of such written statement or record of interview, but nothing shall be said or done to invite any reply or comment. If that person says that he would like to make a statement in reply, or starts to say something, he shall at once be cautioned or further cautioned as prescribed by Rule III(a).

VII. Persons other than police officers charged with the duty of investigating offences or charging offenders shall, so far as may be practicable, comply with these Rules.

DIRECTIONS

1. *Procedure generally*

- (a) Police officers, notebooks should be used for taking statements only when no other stationery is available.
- (b) When a person is being questioned or elects to make a statement, a record should be kept of the time or times at which, during the questioning or making of a statement, there were intervals or refreshment was taken. The nature of the refreshment should be noted. In no circumstances should alcoholic drink be given.
- (c) In writing down a statement, the words used should not be translated into "official" vocabulary; this may give a misleading impression of the genuineness of the statement.
- (d) Care should be taken to avoid any suggestion that the person's answers can only be used in evidence against him, as this may prevent an innocent person making a statement which might help to clear him of the charge.

2. *Record of interview*

Rule II and Rule III(c) demand that a record should be kept of the following matters:—

- (a) when, after being cautioned in accordance with Rule II, the person is being questioned or elects to make a statement—of the time and place at which any such questioning began and ended and of the persons present;
 - (b) when, after being cautioned in accordance with Rule III(a) or (b), a person is being questioned or elects to make a statement—of the time and place at which any questioning or statement began and ended and of the persons present.
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E10 RULES AND DIRECTIONS FOR THE QUESTIONING OF
 SUSPECTS AND THE TAKING OF STATEMENTS

In addition to the records required by these Rules, full records of the following matters should additionally be kept:—

- (i) of the time or times at which cautions were given, and
- (ii) of the time when a charge was made and/or the person was arrested, and
- (iii) of the matters referred to in paragraph 1(b) above.

If two or more police officers are present when the questions are being put or the statement made, the records made should be countersigned by the other officers present.

3. *Interviews at police station*

When a suspect is questioned in a police station, or other premises affording reasonable privacy and facilities for interview, a contemporaneous record must be made of all interviews conducted there.

4. *Comfort and refreshment*

Reasonable arrangements should be made for the comfort and refreshment of persons being questioned. Whenever practicable both the person being questioned or making a statement and the officers asking the questions or taking the statement should be seated.

5. *Interrogation of children and young persons*

So far as practicable, children and young persons under the age of 16 years (whether suspected of crime or not) should only be interviewed in the presence of a parent or guardian, or, in their absence, some person who is not a police officer and is of the same sex as the child. A child or young person should not be arrested, or even interviewed, at school if such action can possibly be avoided. Where it is found essential to conduct the interview at school, this should be done only with the consent, and in the presence, of the head teacher, or his nominee.

6. *Statements in languages other than English*

In the case of a person making a statement or answering questions in a language other than English:—

- (a) Whenever possible all interviews should be conducted in the mother tongue of the suspect unless he chooses, or consents, to use another language in which he is obviously proficient.
 - (b) The statement or record of interview should be recorded in the language used by the person making the statement or answering the questions.
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- (c) A certified English translation should be made in due course and be proved as an exhibit with the original statement or record of interview.
- (d) The person making the statement or answering questions should sign the statement or record of interview. Apart from the question of apparent unfairness, to obtain the signature of a suspect to an English translation of what he said in another language can have little or no value as evidence if the suspect disputes the accuracy of this record of his statement or record of interview.

7. *Supply to accused persons of written statement of charges*

- (a) The following procedure should be adopted whenever a charge is preferred against a person arrested without warrant for any offence:—
The accused person should forthwith be given a written notice containing a copy of the entry in the charge sheet giving particulars of the offence with which he is charged. So far as possible, the particulars of the charge should be stated in simple language so that the accused person may understand it, but they should also show clearly the precise offence in law with which he is charged. Where the offence charged is a statutory one, it should be sufficient for the latter purpose to quote the section of the statute which created the offence.
The written notice should include some statement on the lines of the caution given orally to the accused person in accordance with the Rules after a charge has been preferred. The form of notice should begin with the following words:—
“You are charged with the offence(s) shown below. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.”
 - (b) Once the accused person has appeared before the court, it is not necessary to serve him with a written notice of any further charges which may be preferred. If, however, the police decide, before he has appeared before a court, to modify the charge or to prefer further charges, it is desirable that the person concerned should be formally charged with the further offence and given a written copy of the charge as soon as it is possible to do so, having regard to the particular circumstances of the case. If the accused person has then been released on bail, it may not always be practicable or reasonable to prefer the new charge at once, and in cases where he is due to surrender to his bail within forty-eight hours, or in other cases of difficulty, it will be sufficient for him to be formally charged with the further offence and served with a written notice of the charge after he has surrendered to his bail and before he appears before the court.
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8. *Facilities for defence*

- (a) Provided that no unreasonable delay or hindrance is reasonably likely to be caused to the processes of investigation or the administration of justice:—
- (i) A person in custody, or present with the police and under investigation by them, should be allowed to speak on the telephone to his friends and consult and communicate privately, whether in person or in writing or on the telephone, with a solicitor or barrister. He shall be provided on request with a current list of solicitors provided by the Law Society.
 - (ii) A person in custody, or present with the police and under investigation by them, should be allowed to have a solicitor or barrister present to advise him at any interview between that person and a police officer.
 - (iii) A solicitor or barrister claiming to have been instructed by a third party to act on behalf of a person in custody, or present with the police and under investigation by them, should be allowed to communicate privately with that person, unless the person states, in the presence of only the requesting lawyer and an independent officer not below the rank of inspector, or a sergeant if an inspector is not available, that he does not wish to consult with the lawyer concerned.
 - (iv) The letters of a person in custody, or present with the police and under investigation by them, should be sent by post or otherwise with the least possible delay.
 - (v) A person who has made a cautioned statement or answered questions under caution is entitled to a copy of such statement or record of interview and this should be supplied as soon as possible after each interview. The only exception is where hindrance is reasonably likely to be caused to the administration of justice.

If it is decided to deny a person a copy of his cautioned statement or record of interview, the reasons for this decision must be fully recorded, either within detention records or the investigating officer's notebook. In such circumstances, no further statements should be obtained and no further interviews should be conducted with that person until a copy of the cautioned statement or record of interview has been made available. A refusal must not continue beyond the point where the person is formally charged.

To deny a person a copy of his cautioned statement or record of interview is a serious matter and such action may be the subject of enquiry at his subsequent trial.

- (b) A police officer may only delay or prevent communication between a solicitor or barrister and a person in custody, or present with the police and under investigation by them, if he has reasonable grounds for believing that unreasonable delay; or hindrance to the processes of investigation or to the administration of justice, is likely to be caused if such communication is permitted. The fact that a solicitor or barrister might advise that person not to make, or continue to make, a statement, or not to answer questions, or not to assist the police in their enquiries, should not in itself be treated by a police officer as a ground for delaying or preventing communication between the solicitor or barrister and that person.
- (c) A person in custody, or present with the police and under investigation by them, should be supplied on request with writing materials.
- (d) A person in custody, or present with the police and under investigation by them, should be informed of his rights and the facilities available to him, and in addition notices describing them should be displayed at convenient and conspicuous places at police stations.

The above Rules and Directions replace the Judges' Rules previously adopted by the courts.
