

立法會
Legislative Council

LC Paper No. CB(1)2009/06-07
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seen by the Administration)

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Panel on Financial Affairs

**Minutes of special meeting
held on Thursday, 12 April 2007 at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon SIN Chung-kai, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon TAM Heung-man
- Members attending** : Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LAU Kong-wah, JP
Hon WONG Kwok-hing, MH
- Members absent** : Hon Bernard CHAN, GBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBS, JP
Hon CHIM Pui-chung

**Public officers
attending**

: Agenda Item I

Mr FUNG Hing-wang
Commissioner for Census and Statistics

Mr Dominic LEUNG Kam-to
Deputy Commissioner for Census and Statistics

Miss CHAN Ka-lin
Assistant Commissioner for Census and Statistics

Agenda Item II

Mr Albert LAM
Deputy Secretary for Financial Services and the
Treasury (Financial Services)

Mr Ryan CHIU
Assistant Secretary for Financial Services and the
Treasury (Financial Services)

**Attendance by:
invitation**

Agenda Item II

Mandatory Provident Fund Schemes Authority

Mr Darren MCSHANE
Executive Director (Regulation & Policy)

Ms Maria CHEUNG
Manager (Policy & Development)

Clerk in attendance:

Miss Polly YEUNG
Chief Council Secretary (1)5

Staff in attendance :

Mr KAU Kin-wah
Assistant Legal Adviser 6

Ms Annette LAM
Senior Council Secretary (1)3

Ms Rosalind MA
Senior Council Secretary (1)8

Ms Sharon CHAN
Legislative Assistant (1)8

I. Briefing on the Summary Results of the 2006 Population By-census

(LC Paper No. CB(1)1284/06-07(01) —Paper provided by the Administration

LC Paper No. CB(1)1286/06-07 —Table listing the relevant text, tables and charts in the summary results of the 2006 Population By-census under different policy areas prepared by the Secretariat

—Report on "2006 Population By-census Summary Results" provided by the Census and Statistics Department

LC Paper No. CB(1)1350/06-07(01) —Powerpoint presentation material on "Briefing on the Summary Results of the 2006 Population By-census" (tabled at the meeting and soft copy subsequently issued to members on 13 April 2007)

LC Paper No. CB(1)1350/06-07(02) —Powerpoint presentation material on "Briefing on the Summary Results of the 2006 Population By-census" – Income distribution and Gini Coefficients and M-shape phenomenon in Hong Kong (tabled at the meeting and soft copy subsequently issued to members on 13 April 2007))

At the invitation of the Chairman, the Commissioner for Census and Statistics (C for C&S) gave a power-point presentation on the Summary Results of the 2006 Population By-census conducted from 15 July to 1 August 2006 on 230 000 households in sampled quarters. A report "Hong Kong 2006 Population By-census Summary Results" (2006 Summary Results) was published on 22 February 2007 while seven thematic reports containing detailed results and

analysis of various subjects would be released in stages in 2007 and 2008. One of the seven thematic reports would focus on household income distribution. The key findings of the 2006 Summary Results were summarized as follows:

(a) Population Size

- (i) The Hong Kong Resident Population was 6.86 million in mid-July 2006. During 2001-2006, population growth continued to slow down with an average annual growth rate of 0.4%, as compared with 0.9% during 1996-2001.

(b) Demographic characteristics

- (i) The ageing trend of the population had continued during the past 10 years, with median age rising from 34 in 1996 to 39 in 2006. The increase was attributable to the low fertility rate and improved mortality rate.
- (ii) Sex ratio (i.e. number of males per 1 000 females) of population had fallen below parity to 911 males per 1000 females, as compared to the 1996 figure of 1 000 males per 1 000 females.

(c) Education characteristics

- (i) The proportion of the population aged 15 and over with secondary or higher education had increased from 68% in 1996 to 75% in 2006. In particular, the proportion of those with a university degree or above increased to 15% from 10% in 1996.
- (ii) The proportion of women aged 15 to 44 years having attended secondary and above education increased from 83.6% to 92.8% over the past decade.

(d) Economic characteristics

- (i) The labour force recorded a 12% increase from 3.2 million in 1996 to 3.6 million in 2006, despite a drop in the overall labour force participation rate from 63% in 1996 to 60% in 2006.
- (ii) The proportion of professionals, associate professionals, managers and administrators occupations in the working population had increased from 29% in 1996 to 33% in 2006. In contrast, the proportion of the working population in the craft and related workers occupations dropped from 12% to 8% over the period.

- (iii) In 2006, the largest and the second largest economic sectors were "Wholesale, retail and import/export trades, restaurant" and "Community, social and personal services", each employing 27% of the working population.
- (iv) The median monthly income from main employment of the working population was \$10,000 in 2006, representing an increase of 5% over that of 1996.

(e) Household characteristics

- (i) The number of domestic households increased by 20% from 1.86 million in 1996 to 2.23 million in 2006. The average household size decreased from 3.3 to 3.0 persons over the same period. In 2006, the majority (63.8%) of households comprised three members or less.
- (ii) The median monthly income of domestic households was \$17,250, representing a slight decrease of 1% compared with 10 years ago.
- (iii) The proportion of domestic households with monthly household income lower than \$8,000 increased from 16.4% in 1996 to 21.2% in 2006. On the other hand, the proportion of domestic households with monthly household income higher than \$40,000 increased from 15% to 17% over the last 10 years.
- (iv) Prices decreased by 2% as measured by the Composite Consumer Price Index over the period from 1996 to 2006.

(f) Housing characteristics

- (i) In 2006, some 3.4 million persons lived in private permanent housing, 2.1 million in public rental housing, and 1.2 million in Housing Authority and Housing Society subsidized sale flats.
- (ii) In 2006, domestic households renting whole private housing units paid a median monthly rent of \$5,500, while the median monthly rent for those living in public rental housing was \$1,390.
- (iii) In 2006, of the 1.17 million households who owned the quarters they lived in, 52% did not need to make mortgage payment and loan repayment.

(g) Geographical characteristics

- (i) There was substantial internal migration of the population during the last decade. In 1996, Hong Kong Island, Kowloon and the New Territories had respectively 21%, 32% and 47% of the population while the respective proportions in 2006 were 18%, 29% and 52%.
- (ii) Due to new towns development, many districts in the New Territories such as Islands, Sai Kung, and Yuen Long recorded a marked population growth while districts like Wan Chai, Southern and Kowloon City experienced population decrease.

Discussion

The compilation of Gini Coefficient

2. Mr WONG Kwok-hing recalled that according to earlier comments of the Government Economist, a direct comparison between the Gini Coefficient of Hong Kong and those of other economies was inappropriate, and that the Gini Coefficient by itself might not adequately reflect household income distribution. Mr Wong sought clarification and asked whether the Administration would suitably revise the methodology for compiling the Gini Coefficient to enable a meaningful comparison with those of overseas economies.

3. In reply, C for C&S said that the Gini Coefficient was widely used as an indicator to measure income distribution and income disparity among households. With the aid of a power-point presentation on income distribution and Gini Coefficient, C for C&S briefed members on the Lorenz Curve and the definition and calculation of Gini Coefficient in measuring income disparity. He explained that the Lorenz Curve was obtained by plotting the cumulative percentages of household income against the cumulative percentages of the number of households, starting from households with the lowest income. The line of absolute equality, which was the diagonal line, represented absolutely equal income distribution in a society where every household had the same level of income. The line of absolute inequality, which coincided with the horizontal and vertical axes, represented absolutely unequal income distribution in a society where all income was concentrated in only one household. The degree of income disparity was reflected by the extent to which the Lorenz Curve concaved against the line of equality. The closer the Lorenz curve was to the line of equality, the smaller was the degree of income disparity. The Gini Coefficient was a ratio with values ranging between 0 (when all households had the same level of income) and 1 (when a single household earned all the income). C for C&S pointed out that the Gini Coefficient was only one of the indicators to measure income disparity. While it was true that generally speaking, a higher Gini Coefficient was indicative of rising income disparity, there was no direct relationship between the extent of poverty and the value of the Gini Coefficient.

4. On the methodology adopted for compiling the Gini Coefficients in Hong Kong, C for C&S explained that the Gini Coefficients released in previous rounds of Population Census/By-census were based on household income data obtained from the Population Census/By-census only and had not taken into account most of the income redistribution effects brought about by taxation and various social benefits. This approach was different from that adopted by more developed overseas countries, where such income redistribution effects were factored in the compilation of their Gini Coefficients.

5. In elaboration, C for C&S advised that the United State (US), Australia and Canada compiled more than one Gini Coefficient to take account of the redistribution effect of taxation and other social benefits. The adjusted Gini Coefficients which had taken into account the effect of taxation and social benefits would enable the public to understand and interpret the income distribution in the context of "disposable income", which was a common approach adopted internationally. For instance, analysis of income distribution in the US showed that the Gini Coefficients compiled with reference to disposable income (0.405 in 2003; 0.400 in 2004; 0.418 in 2005) were significantly lower than those based on market income (0.492 in 2003; 0.496 in 2004; 0.493 in 2005). In general, a Gini Coefficient based solely on household income would likely be higher than the Gini Coefficient which had factored in the effect of taxation and other social benefits.

6. Noting that the existing methodology for devising the Gini Coefficient in Hong Kong had its shortcomings, Mr Albert HO enquired whether the revised methodology to be adopted by the C&SD would be in line with the best international practice. In this connection, C for C&S highlighted that as a result of significant changes in Hong Kong's social and economic structure in recent years, the study on household income distribution and the analysis of income disparity had become much more complicated. For illustration, he used three hypothetical cases in which two households of the same size (each with a couple and three children) and the same total household income, through marriages and in 10 years' time, became five separate households (two households each comprising a retired couple and three families of married couple with different levels of educational attainment and income). The Gini Coefficients of these families were shown to change over time, suggesting an increase in income disparity, albeit in reality the households concerned might not feel any real change in their income situation at all. C for C&S pointed out that a host of demographic, social, and economic factors, such as changes in family size and structure, ageing of the population, structural changes of the economy, the income redistribution effects of the Government's taxation policies and social benefits (such as subsidies provided by the Government on housing, medical and education services) resulted in a combined effect on household income distribution. As such, the Gini Coefficient as a single indicator by itself might not fully reflect the changes in income distribution and income disparity.

7. In response to members' queries as to why the Gini Coefficient was not released in the context of the 2006 Summary Results, C For C&S reiterated his earlier comments that simply releasing the Gini Coefficient from the household

income data of the By-census without taking into account the pertinent socio-economic factors and the redistribution effects of Government policies and social benefits would not only fail to inform the public of the factors underlying the changes in income distribution, but might even lead to misunderstanding of the actual situation. Nevertheless, the Administration was aware of public concern about income disparity in Hong Kong and had strived to improve the compilation and analysis of the data on income distribution. The C&SD would conduct a detailed and comprehensive analysis and compile a Thematic Report on Household Income Distribution (the Thematic Report) making use of the data collected from the 2006 Population By-census. The Thematic Report, expected to be ready for release by mid-2007, would analyze the impact on income distribution brought about by socio-economic changes, including changes in household size and structure, structural changes of the economy, and the effect of Government policies.

8. While noting that socio-economic changes could affect income disparity, Mr Albert HO considered that the best approach to tackle the problem of widening income disparity was to first acquire an accurate assessment and understanding of the real situation. C for C&S said that the detailed Thematic Report, with relevant statistics and indicators including unadjusted Gini Coefficients and Gini Coefficients adjusted to include the effect of taxation and social benefits on income distribution, would facilitate better understanding of the situation. A time series of these statistics and indicators, including the adjusted Gini Coefficients of 1996 and 2001, would be compiled so that the public could be better informed about the difference between unadjusted and adjusted Gini Coefficients.

9. Noting the C for C&S's presentation materials on the Gini Coefficients, Ms Emily LAU commented that the Administration should have provided members with all the relevant material and information to facilitate a meaningful and informed discussion, instead of withholding relevant information and releasing it only when members so required. Ms LAU shared some members' concern about the lack of information on the Gini Coefficient and questioned why the Administration had not revised its methodology for compiling the Gini Coefficient at a much earlier time, having regard that revised practices had already been adopted by overseas countries for years. She considered that the Government owed the public a satisfactory explanation, failing which the public might form the impression that the Government was trying to conceal or manipulate the data.

10. In response, C for C&S advised that countries such as the United Kingdom (UK), US, Australia and Canada had started to compile adjusted Gini Coefficients in recent years while most other countries, due to data constraint, had continued to compile Gini Coefficients without adjustment. He added that the revised methodology for measuring adjusted income distribution was a recent development, and the US had only compiled the adjusted Gini Coefficient using the disposal income concept since 2003. He informed members that an attempt was made last year to assess the impact of taxation policies and social benefits on various types of household income by making use of the data collected in the

General Household Survey, and the preliminary findings were reported to the Commission on Poverty. As the survey was a relatively small-scale random sampling survey, the analysis made in that exercise was not very comprehensive and precise. This was why the Administration decided on its own initiative to conduct a more detailed analysis making use of the 2006 By-census data. Given the complexity of the issues and the time required to analyze the data, the Gini Coefficients and other detailed analysis would be released in the context of the Thematic Report in mid-2007. C for C&S stressed that in presenting information to LegCo, the Administration would take into consideration members' concern and request and there was no question of withholding information from Members or the public.

Factors which might affect the study on household income distribution

11. Mr Jeffrey LAM noted the trend of ageing population during the past 10 years, with median age rising from 34 in 1996 to 36 in 2001 and further to 39 in 2006, as well as the significant increase in the number of elderly households comprising retirees. He pointed out that categorizing elderly households as low-income households solely on the basis of their "regular income from main employment" could be misleading because some retirees, though not in employment, might be on pension or receiving financial assistance from other family members not residing with them. It was also possible that some retirees might possess assets such as property, or had other sources of income from rental and investments. As such, Mr LAM urged the Administration to consider ways to give due weighting to such factors so as to better reflect the actual household income situation in Hong Kong. In this connection, Mr Albert HO opined that apart from regular income from main employment, income derived from interests, investment and rental income should all be counted towards "income".

12. C for C&S explained that for the purpose of Population Census and By-census, the scope of "income" included only income on a regular basis, such as income from main employment, pension payment, rental income, and interests income. Ad-hoc income such as occasional financial assistance from other family members and personal "wealth" such as savings and other valuable assets were not regarded as "income". He said that the collation of statistical data on "income" and "wealth" had always been difficult as the reliability of the data would depend on whether the respondents had provided complete and accurate information. C for C&S said that when making an analysis, C&SD would also make reference to other relevant information of the respondents, such as whether there were outstanding mortgage payments or loan repayments.

13. On the reliability of the data provided by respondents during interviews, Mr Albert HO considered that if the interviewer had explained clearly to the respondents the questions in the survey and what constituted "income", there should not be great difficulty in obtaining the pertinent data. Moreover, for a census or by-census, respondents were required under the relevant legislation to answer the questions during the interview, and to provide complete and accurate

information to the best of their knowledge. Mr HO asked whether other countries had compiled Gini Coefficients or statistical data which took into account the personal "wealth" element.

14. In response, C for C&S advised that as a general practice, the Gini Coefficient was compiled on the basis of regular income, and other forms of "wealth" were not taken into account. He added that he was not aware of any overseas countries having made use of "wealth" data of the population to compile Gini Coefficients. C for C&S remarked that the major difficulties of collecting wealth data were that most people did not keep a good account of their personal wealth and they might not be prepared to disclose comprehensive information of their personal "wealth".

15. In this connection, Mr Jeffrey Lam and the Chairman were concerned that the lack of reported data on personal wealth and on various forms of ad-hoc income received by respondents might have distorted the accuracy of the Gini Coefficient. Mr LAM urged the Administration to make the necessary adjustments to improve the compilation and analysis of the data on income distribution so as to accurately reflect the true picture. He also considered that the Administration should take steps to increase community awareness of the constraints of the study in order that the public would be in a better informed position to interpret the relevant findings. Sharing his view, the Chairman agreed that the Administration should make reference to international practice and adopt measures to ensure that the compilation of the Gini Coefficient could accurately and realistically reflect the income disparity situation in the society. Noting their concern, C for C&S said that more information and background on the compilation of Gini Coefficients would be provided so that the public would be aware of the usefulness and possible limitations of the methodology.

Admin

Thematic Report on Household Income Distribution

16. Noting that the Thematic Report would be issued in mid-2007, Mr WONG Kwok-hing called on the C&SD to make a fair and objective study on household income distribution and to account for the revised methodology for compiling the Gini Coefficient. Mr Albert HO held a similar view and considered that the Gini Coefficients for the period 1996 to 2006, in both their adjusted and unadjusted forms, should be set out and where applicable, compared with those of other countries.

17. C for C&S said that an explanation on the revised methodology would be provided in the Thematic Report which would also include relevant statistics and indicators on income distribution (including the 1996, 2001 and 2006 unadjusted Gini Coefficients, and Gini Coefficients duly adjusted to include the effect of taxation and social benefits); as well as a comparison of Hong Kong's indicators with those of other countries. He assured members that C&SD would exercise due diligence in compiling objective and comprehensive statistics.

18. Ms Emily LAU suggested that the Administration should seek to tap the views of academics in preparing the Thematic Report. Mr WONG Kwok-hing also shared a similar view. In reply, C for C&S confirmed that the Administration had held discussions with academics and would seek their views on relevant issues where appropriate. Ms Emily Lau suggested and members agreed that the Thematic Report should be made available in time for members' further discussion in June/July 2007, before the current legislative session ended. C for C&S noted members' view.

Widening income disparity and M-shape phenomenon

19. Referring to paragraph 16 of the paper provided by the Administration (LC Paper No. CB(1)1284/06-07(01)), Mr WONG Kwok-hing noted with concern that the proportion of domestic households with monthly household income lower than \$8,000 had increased from 16.4% in 1996 to 21.2% in 2006, while the proportion of those with monthly household income above \$40,000 had increased from 15% to 17%. He sought the Administration's explanation on the widening income gap as revealed in the statistics. Sharing the same concern, Miss TAM Heung-man noted from table 34 on "Domestic Households by Monthly Domestic Household Income" of the power-point presentation the significant increase in the proportion of domestic households with monthly household income lower than \$8,000 over the last 10 years, the substantial increase in those with monthly household income higher than \$40,000, and the notable increase in households with monthly income higher than \$60,000 .

20. In this regard, C for C&S outlined the major factors underlying the changes in household income distribution. He said that smaller household size and the ageing population were some of the major factors contributing to the increase in low-income households. The restructuring of families towards smaller nuclear families as reflected in the significant increase in the number of smaller households such as one-person households, single-parent households, and elderly households (typically comprising retirees aged 60 and over) had led to a progressive decline in the average household size. As the household size and the number of working household members had an effect on household income, a decline in average household size would tend to bring down the household income in general. C for C&S also highlighted the aging population as another factor. From a life cycle perspective, while the income of middle-aged workers with lower skills and lower education level would continue to decline over time, the income of middle-aged workers with tertiary education would nevertheless increase over time as they acquired more experience. He further pointed out that the economic restructuring of Hong Kong, with its transition to a knowledge-based and service-oriented economy, had resulted in a stronger demand for a skilled and educated workforce. This accounted for the increase in higher-income jobs at the managerial, professional and skilled levels which in turn widened the income disparity between high-income and low-income jobs.

21. Noting the impact of the ageing population on household income distribution, Miss TAM Heung-man enquired about the proportion of and the percentage increase in the number of retirees in domestic households with monthly household income lower than \$8,000. C for C&S advised that no detailed statistics in this regard was available at the moment. However a detailed account and in-depth analysis would be included in the Thematic Report to be released in mid-2007.

22. Referring to table 34 on "Domestic Households by Monthly Domestic Household Income" of the power-point presentation, Mr Albert HO expressed grave concern over the M-shape phenomenon in Hong Kong whereby the proportion of households at both the upper ends (with monthly household income of over \$40,000) and lower ends (with monthly household income of less than \$8,000) of the income distribution curve had increased over the past decade while the proportion of middle-income households had decreased. He sought the Administration's comments on the emerging M-shape phenomenon and its implications.

23. In response, C for C&S briefed members on the M-shape phenomenon in Hong Kong with the use of a power-point presentation which set out the percentage distribution of the working population (discounting foreign domestic helpers) by monthly income from main employment, as well as the percentage distribution of domestic households by monthly domestic household income, both at current and constant prices. He pointed out that while there was an increase in the percentage of lower-income households in 2006 compared to 1996, the percentage of working population with lower income had in fact dropped during the period under comparison.

24. Mr SIN Chung-kai noted that the proportion of households with monthly household income above \$40,000 had increased from 15% in 1996 to 17% in 2006 while the proportion of households with monthly household income below \$10,000 had increased from 23.9% in 1996 to 27.9% in 2006. He pointed out that setting different thresholds on "high-income" and "low-income" households would affect the analysis on the existence of the M-shape phenomenon. As such, he requested the Administration to provide an information paper to explain in greater detail the M-shaped phenomenon and the compilation of Gini Coefficient, detailing the changes in household income distribution and the Gini Coefficients for the period 1996 to 2006, setting out a comprehensive analysis on income disparity in Hong Kong as well as analyzing the effects of using different thresholds on "high-income" and "low-income" households on detecting the M-shape phenomenon.

25. Referring to table 25 of the "2006 Population By-census Summary Results", Ms Emily LAU queried the Administration for not providing a further breakdown on monthly household income higher than \$60,000, and requested the Administration to provide such a breakdown. She was also concerned whether the Government was trying to evade the problem of income disparity by revising the methodology for compiling the Gini Coefficient which would reveal that the income disparity

situation was not so serious as to warrant Government action.

26. Mr Ronny TONG shared Ms Emily LAU's concern and regretted that the Administration was trying to brush aside the problem of M-shaped phenomenon and the widening income gap. He said that ageing population and small household size were not unique to Hong Kong. However, other places had not experienced a widening income gap in the process. He opined that it might not be too meaningful to debate on the methodology for compiling the Gini Coefficient when income disparity was such an obvious problem confronting the community. Mr TONG remarked that the predicament faced by the poor had worsened in the past decade in terms of income, purchasing power, and living conditions. He requested the Administration to provide a table comparing the changes in the proportion of domestic households with monthly household income lower than \$8,000 and those with monthly household income higher than \$40,000 during the period 1996 to 2006, vis-à-vis the rate of deflation / inflation and the changes in Gross Domestic Product.

27. C for C&S agreed to provide the information requested. He pointed out that the Gini Coefficient, being an objective and scientific indicator, was one of many indicators to measure household income distribution. He advised members that the Thematic Report to be published in mid-2007 would include a systematic and structured analysis on household income distribution including analysis by various types of households, which might differ in their composition, size, age of household members etc.

(Post-meeting note: The Administration's written response to the request at paragraphs 24 to 26 above was issued to members vide LC Paper No. CB(1) 1963/06-07(01) on 29 May 2007.)

Pregnant Mainlanders giving birth in Hong Kong

28. Referring to the rising trend of pregnant Mainland women giving birth in Hong Kong, Miss TAM Heung-man questioned whether the Administration had taken this factor into consideration when making population projections and in assessing the impact on ageing population.

29. In reply, C for C&S said that of the 65 000-plus births in Hong Kong in the year 2006, around 26 000 babies were born to Mainland women in Hong Kong. Of these 26 000 new births, around 9 000 babies were fathered by Hong Kong residents while the parents of the remaining 16 000 babies were non-Hong Kong residents. Parents who were non-Hong Kong residents would normally bring along their newborn infants when they themselves returned to the Mainland after giving birth in Hong Kong. In this connection, C&SD had recently conducted a survey on these Mainland parents' intention, including whether and when their Hong Kong-born children were likely to take up residence in Hong Kong. The data thus collected and suitably adjusted in the light of subsequent development would be taken into consideration when making population projections for various planning purposes. On new arrivals from the Mainland with less than seven years' residence

in Hong Kong, C for C&S informed members that the Home Affairs Department (HAD) had been compiling a quarterly report which contained data such as age distribution, educational background, and occupations of such new arrivals. The report was accessible to the public on HAD's website. He said that the Administration was mindful of the possible impact of new arrivals from the Mainland on various social and economic policies, and that the forthcoming Thematic Report on Persons from the Mainland Having Resided in Hong Kong for Less Than 7 Years would provide useful reference in this respect.

Way forward

30. Summing up, the Chairman requested the Administration to take note of members' views and requests for further consideration, and to make available the detailed Thematic Report on Household Income Distribution in time for members' consideration in June/July 2007. As the subjects covered in the By-census report straddled different policy areas and the ensuing seven thematic reports would cover a wide range of subjects, the Chairman suggested and members agreed that individual panels/committees could follow up related issues within their respective purview afterwards.

(Post-meeting note: Subsequent to the special meeting held on 12 April 2007, it was agreed by the Panel Chairman and the Chairman of the Subcommittee to Study the Subject of Combating Poverty (the Subcommittee) that the latter would follow up the findings of the Thematic Report on Household Income Distribution in the context of its study on combating poverty to which the Gini Coefficient and related issues were highly relevant. The Thematic Report was issued to all Members of the Legislative Council on 18 June 2007. The Subcommittee would discuss the findings of the Thematic Report at its meeting on 10 July 2007.)

II. Proposed amendments to the Mandatory Provident Fund Schemes Ordinance

(LC Paper No. CB(1)1266/06-07(01) — Paper provided by the Administration

LC Paper No. CB(1)1350/06-07(03) Power-point presentation material provided by the Administration (tabled at the meeting and soft copy issued to members on 12 April 2007)

Introduction by the Administration

31. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services) (DS/FS) gave a brief introduction on the background and purposes of the proposed amendments to the Mandatory Provident Fund Schemes Ordinance (MPFSO) (Cap.485). DS/FS advised that after the implementation of the MPF System in December 2000, the MPF Schemes Operation Review Committee (the Review Committee) was established in August 2001 to conduct a comprehensive review of the MPF System and relevant legislation with regard to their operational and administrative aspects. Based on the advice of the Review Committee, the Mandatory Provident Fund Schemes Authority (MPFA) made recommendations to the Administration on amendments to the MPF legislation. For example, amendments to the Mandatory Provident Fund Schemes (General) Regulation (the General Regulation) (Cap. 485A) were made in 2006 to improve the investment regulations in respect of MPF funds.

32. On the current legislative proposal, DS/FS advised that it covered various items of amendments endorsed by the Review Committee in three major areas, namely, MPF treatment of housing allowance and other housing benefit; non-payment of mandatory contribution in non-enrolment cases; and improvement of arrears recovery mechanism. Apart from the three major areas above, the current proposal also included other legislative amendments which sought to improve the enforcement the MPF System and the administration of MPF schemes.

Briefing by the Mandatory Provident Fund Schemes Authority

33. At the invitation of the Chairman, Mr Darren MCSHANE, the Executive Director (Regulation & Policy), MPFA (ED(RP)/MPFA) briefed members on the details of the proposed amendments with the aid of a power-point presentation and highlighted the following major proposals:

- (a) Under the existing MPFSO, housing allowance and other housing benefit were excluded from the definition of "relevant income" for the purpose of mandatory MPF contributions (MCs) on the primary justification that housing allowance could be quite substantial and the exclusion was needed to minimize the potentially significant contribution burden for employees who received housing allowances. However, in the light of abuses that had developed in recent years, MPFA had re-examined the justification for exclusion. In MPFA's view, if the intention was to alleviate employees' contribution burden, then, the exclusion arrangement should be extended to employees incurring housing expenses as well as other significant expenses. MPFA therefore considered that there was no strong conceptual basis to exclude housing allowance from the calculation of MCs and would propose to remove the exclusion. It is also concerned that the current exclusion of housing allowance would result in substantial reduction in MCs.

- (b) As present, where an employer had failed to enrol an employee into a MPF scheme, criminal prosecution could be brought against the employer for non-enrolment. However, no legal action could be taken against the employer for his non-payment of MCs. MPFA had therefore proposed to amend MPFSO to provide that in non-enrolment cases, MPFA could bring criminal proceedings against the employer for non-enrolment and non-payment of MCs at the same time. To facilitate effective enforcement, MPFSO would be amended so that upon conviction for non-enrolment or non-payment of MCs, the court would have a discretionary power to compel an employer to make rectification accordingly.
- (c) Under the existing MPF legislation, MPFA could only impose contribution surcharge and institute civil proceedings against an employer to recover the default contribution and contribution surcharge after all the recovery procedures had been complied with. In the light of the difficulties encountered in complying with the detailed recovery mechanism in full in some cases, MPFA had proposed to amend the General Regulation to streamline the procedure by removing the settlement period and clarify uncertainty in the law to facilitate the recovery of default contribution even if some recovery steps could not be complied with.
- (d) Other proposed amendments included proposals to : (i) enhance the enforcement of the MPF System; (ii) improve the administration and regulation of MPF scheme; and (iii) introduce other technical and miscellaneous amendments.

Discussion

MPF treatment of housing allowance and other housing benefit

34. Mr LEE Cheuk-yan said that the Hong Kong Confederation of Trade Unions had been urging the Administration to remove the exclusion of housing allowance and other housing benefit from the existing scope of "relevant income" as defined in section 2 of MPFSO. He welcomed the proposed amendments which would help to prevent abuse by employers.

35. Noting the proposed inclusion of housing allowances and other housing benefit in the definition of "relevant income", Mr WONG Kwok-hing was concerned whether the legislative amendment, if enacted, would have retrospective application and have an effect on the employment contracts entered into before enactment of the amendment. In reply, ED(RP)/MPFA explained that the proposed amendment sought to revise the calculation of "relevant income" for MPF contribution purposes. It was not intended to alter the pre-existing contractual arrangements between employees and employers. He pointed out that the proposed

amendment, if enacted would include housing allowance and housing benefit as "relevant income". It would not take retrospective effect to apply to past MCs.

36. Mr Jeffrey LAM sought information on the number of employees receiving housing allowance and housing benefit and enquired whether the proposed amendment to the definition of "relevant income" was made in response to a rising trend that the housing element accounted for a sizable portion of employees' income. In this regard, ED(RP)/MPFA said that MPFA did not have information on the extent to which housing allowance accounted for employees' income. Nevertheless, information from surveys conducted by the Census and Statistics Department showed that only a small number (a few thousands) of employees with monthly income below \$20,000 (which was the maximum level of relevant income for MCs) were receiving housing allowance or benefit. Notwithstanding, the number of complaints received by MPFA from employees with monthly income below \$20,000 was far greater.

37. Mr Jeffrey LAM questioned the rationale and justification for the proposed amendment to include housing allowance and housing benefit in the definition of "relevant income" in the absence of any objective data showing a rising trend for employers to evade MPF contribution by designating a sizable portion of their employees' income as housing allowance. Mr LAM was concerned about the implications of the revised definition of "relevant income" on other labour-related legislation such as the Employment Ordinance (EO) (Cap. 57). He was strongly of the view that in the absence of objective data to justify the change, the proposed amendment was unacceptable. Mr James TIEN shared Mr LAM's view. Mr TIEN said that Members of the Liberal Party (LP) supported in principle other proposed amendments to MPFSO, but had grave reservation on the proposed change to the definition of "relevant income" as it might have profound implications on the calculation of other labour benefits under EO, such as the Long Service Payment (LSP) and paid maternity leave. He therefore urged the Administration to critically re-examine the proposal.

38. In response, DS/FS said that the Administration/MPFA had examined the matter carefully before putting up the current proposal. He advised that the primary justification for originally excluding housing allowance from the definition of "relevant income" was that housing allowance could be quite substantial and the exclusion was needed to minimize the contribution burden on employees who received housing allowance. It was also envisaged at the time when the legislation was first enacted that this arrangement would unlikely affect lower-paid employees as they usually were not entitled to housing allowance and benefit. However, in the light of complaints on abuses received during the past few years when the MPF System was in operation, MPFA had reconsidered the validity of the basis for exclusion and had come to the view that conceptually, there was no valid reason to treat housing allowance differently from any other types of allowance or remuneration items.

39. Mr Jeffrey LAM did not subscribe to the Administration's explanation and maintained his view that strong justifications should be provided to facilitate members' consideration of the proposed change.

40. Mr Ronny TONG enquired about the definition of housing benefit under MPFSO, in particular, whether benefits in kind such as the provision of quarter or accommodation by employers would be regarded as housing benefit. If so, Mr TONG was concerned that the proposed amendment might increase the contribution burden of low-paid workers with accommodation provided by their employers. He was concerned whether the proposed amendment would achieve the intended purpose of preventing abuse.

41. In response, ED(RP)/MPFA advised that under the MPFSO, housing allowance and housing benefit was excluded from the current definition of "relevant income". However, housing allowance and housing benefit was not a defined term in the MPFSO. If the law was amended to remove the current exclusion, then the existing general definitions and principles would be used to determine whether a housing allowance or other benefit was relevant income. MPFA had drawn up guidelines on what constituted "relevant income" and these guidelines would need to be updated after enactment of the proposed amendment. A general principle was to consider whether the allowance/benefit was provided in kind or in monetary terms in determining if it was relevant income or not. Housing benefit provided in kind, i.e. quarter or accommodation, would not be regarded as "relevant income" for the purpose of calculating MCs. Other forms of housing assistance to employees such as low mortgage interest rates would not count towards "relevant income". However, rent subsidy or tenancy allowance provided by the employer to the employee would be "relevant income" under the proposed amendment.

Enforcement actions by MPFA and protection of benefits of scheme members

42. Mr LEE Cheuk-yan was pleased to note the Administration's proposal that in non-enrolment cases, MPFA could bring criminal proceedings against the employer for non-enrolment and non-payment of MCs at the same time. Mr LEE considered the existing provisions of MPFSO had in effect encouraged employers not to enrol their employees into MPF schemes altogether so that they would not incur any criminal liability for non-payment of MCs. He strongly requested that the proposed criminal liability should have retrospective application so as to achieve greater deterrent effect and provide better protection for employees. Mr Albert HO shared Mr LEE's view.

43. ED(RP)/MPFA noted members' concern about the need to protect the rights of employees in cases of non-enrolment and/or non-payment by employers. He advised that after enactment of the amendment legislation, an employer who failed to enrol his employee into an MPF scheme could be prosecuted for both non-enrolment and non-payment of MCs. ED(RP)/MPFA however pointed out that retrospective application of criminal liability involved complicated legal

issues which would have to be further studied in consultation with the Department of Justice (DoJ).

44. Mr LEE Cheuk-yan stated his view that to achieve a greater deterrent effect on employers who had defaulted or evaded payment of MCs, a two-tier penalty should be imposed for non-compliance, i.e. a higher penalty should be imposed on employers who had not only defaulted their own payment of MCs but also the contributions deducted from their employees' income; while a lower penalty should be applicable to employers who had defaulted payment of their own MCs. In this regard, ED(RP)/MPFA pointed out while the existing legislation had prescribed the maximum level of penalty, the penalty imposed in individual cases was a decision for the magistrate having regard to the severity and facts of the offence concerned, but consideration could be given to whether different tiers of maximum penalties should be set out in the law.

45. Mr WONG Kwok-hing said that Members of the Hong Kong Federation of Trade Unions welcomed the proposed amendments to MPFSO to enhance protection for scheme members. Mr WONG was however concerned about the effectiveness of the legislative proposals in safeguarding against employers' evasion of payment of MCs, in particular when employers arranged to transfer the assets of their companies prior to winding up.

46. In response, ED(RP), MPFA confirmed that MPFA was all along committed to effective recovery of arrears of contributions. He added that the current proposal would streamline the procedures for arrears recovery so as to facilitate the timely/early start of the court proceedings and to some extent, address employees' concern about asset transfer by employers during the recovery process. He stressed that the MPFA had taken note of the issues and would keep them in view.

47. Mr WONG Kwok-hing was concerned about the protection available to employees who had reported their employers' non-compliance to MPFA. In response, ED(RP)/MPFA said that MPFA was aware of his concern and was quite advanced in devising proposals to address his concern. ED(RP)/MPFA added that MPFA was currently identifying an appropriate legislative mechanism to safeguard employees' interests in this regard.

48. Miss CHAN Yuen-han considered that the proposed amendments, such as the proposed inclusion of housing allowance and housing benefit in the definition of "relevant income", could improve to some extent the operation of the MPF System. Referring to statistical information on the enforcement work of MPFA in 2006 (such as the number of complaints, inspections, surcharge notices issued and the number of prosecutions brought against non-compliant employers), Miss CHAN was gravely concerned that the enforcement efforts of MPFA was far from effective. She was of the view that without additional manpower resources, MPFA could hardly step up its enforcement work. Miss Chan also considered that the penalty under MPFSO for non-enrolment and non-payment of MCs were relatively

lenient when compared with the offence provisions under EO for defaulting wage payment. As such, she urged the Administration to consider introducing higher penalty for MPF-related offences so as to achieve a greater deterrent effect on employers.

49. Mr Albert HO expressed concern about the protection of the benefits of scheme members when their employers went into bankruptcy or liquidation. In this connection, Mr HO enquired about the coverage of the Protection of Wages on Insolvency Fund (PWIF) and whether payment from PWIF could cover default employers' MCs. DS/FS undertook to provide the required information after the meeting.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1541/06-07(01) on 7 May 2007.)

50. Responding to Mr Albert HO's further enquiry on the enforcement actions by MPFA against employees who claimed to be self-employed persons, ED(RP)/MPFA advised that in determining whether a person was an employee or a self-employed person, MPFA would need to examine the facts of the case and whether an employment relationship existed.

Unclaimed benefits

51. Miss TAM Heung-man noted that under the existing provisions related to "unclaimed benefits", MPF scheme trustees were required to remind scheme members who had attained the retirement age of 65 and chosen to keep the benefits in the scheme on an annual basis to indicate their wish or otherwise for keeping the benefits in the scheme in the following financial year. On the Administration's proposal to streamline the existing process by removing the requirement for the trustee to remind scheme members annually but instead continue to retain the benefits for the member until the latter applied for withdrawal, Miss TAM was concerned that retired scheme members might need to rely on some regular reminders about their "unclaimed benefits" kept in the scheme. She therefore suggested that the process could be streamlined by requiring trustees to remind scheme members at longer intervals, say every three to five years.

52. In reply, ED(RP), MPFA advised that MPFA had examined other possible means for the trustees to serve reminders to retired scheme members, for example, by providing notification together with the annual benefit statement. MPFA would re-consider the way to streamline the process while at the same time facilitate retired scheme members to be reminded of their "unclaimed benefits" kept in the scheme.

Disclosure of information by MPFA and consent to restructuring of MPF schemes

53. Noting the proposal to amend MPFSO to allow MPFA to disclose information under certain circumstances specified in paragraph 31 of the Administration's paper, Mr Albert HO considered that MPFA should also be allowed to disclose information in the public interest so as to alleviate public concern on certain cases. ED(RP)/MPFA advised that Mr HO's concern would be taken on board in the drafting of the proposed amendment. MPFA would discuss with DoJ on how the public interest element would be included in the criteria for information disclosure.

54. Mr Albert HO also expressed concern about the proposed amendment to put beyond doubt that consent given by MPFA would override the requirements to obtain scheme members' consent for MPF scheme restructuring. He considered it prudent to provide for an oversight mechanism to ensure protection of the rights of scheme members in scheme restructuring, such as by the court or by high-level officials such as FS.

55. In response, ED(RP)/MPFA advised that the court could assume an oversight role under the existing mechanism as the MPF scheme trustee could apply to the court for approval of scheme restructuring other than applying to MPFA for consent by virtue of section 34B of MPFSO. In considering an application for scheme restructuring, the court would certainly take into account the interests of scheme members. The proposed amendment sought to deal with the problem in the existing legislation where the implications of the consent given by MPFA for scheme restructuring were not clearly spelt out. The proposed amendments would not bring about changes to the approving and oversight mechanism. As to Mr Albert HO's concern about the need for a higher level authority to oversee the approval of scheme restructuring, ED(RP)/MPFA said that while the common practices in overseas jurisdictions were for the regulator to give approval for scheme restructuring, the existing mechanism could be examined further having regard to Mr HO's comment.

Other concerns

56. Miss TAM Heung-man expressed concern that as the existing definition of "relevant employee" in section 2 of MPFSO included an employee of 18 years of age or over and below retirement age, employers might try to evade MCs through employing persons below 18 years of age. She enquired whether the definition of "relevant employee" would be revised under the proposed amendments. In response, ED(RP)/MPFA pointed out that one of the proposed amendments would aim to clarify the enrolment and contribution requirement applicable on the change of circumstances. He could not see how the proposed amendment would make employers tending to employ persons below 18 years of age for the purpose of evading their MPF liabilities. He clarified that the amendment would not change the age limit on which the enrolment and contribution requirement applied.

57. Miss CHAN Yuen-han expressed concern about the current arrangements that employers who had made severance payment (SP) or LSP to their employees in accordance with EO could offset the corresponding amounts from the employees' vested benefits which were attributable to employers' contributions. She was particularly concerned that these offsetting arrangements would largely reduce the accrued benefits of scheme members upon their retirement in the long run, thereby defeating the purpose of the MPF System to provide retirement protection for the workforce. Miss CHAN called on the Administration to give serious consideration to making appropriate amendment to MPFSO to discontinue the offsetting arrangements.

58. Mr James TIEN however held a different view on the offsetting arrangements and recalled that the subject had been discussed thoroughly prior to the introduction of the MPF System. He was of the view that as SP and LSP provided certain protection to employees on account of their service with the same employer, the offsetting arrangement was reasonable, lest employees would be provided with "double benefit" for the same period of service. Mr TIEN said that LP Members would not support a review of the offsetting arrangements. He opined that employees should also be encouraged to make other arrangements to cater for their retirement needs instead of relying solely on the accrued benefits from the MPF schemes.

59. Summing up, the Chairman asked the Administration and MPFA to take into consideration members' views and concerns in refining the legislative proposals, where appropriate. For example, more information on housing benefits payable to employees should be provided to support the proposal to include housing allowance in the definition of "relevant income". He said that members could deliberate further on the policy considerations and justifications underlying the legislative proposal at the relevant Bills Committee in due course.

III. Any other business

60. There being no other business, the meeting ended at 11:10 am.