

Response and comment on the HKSAR periodic report to the United Nations under the International Convention on the elimination of All Forms of Racial Discrimination

Submitted by: Growing Together (June 2009)

Growing Together Limited (“**Growing Together**”) was established in Hong Kong in 1999 by a number of charities to support the development of an inclusive and caring society where all citizens enjoy the fundamental human rights protected by international conventions.

Executive summary:

Growing Together wishes to inform LegCo’s Panel on Constitutional Affairs that non-Chinese speaking (“**NCS**”) children with special educational needs (“**SEN**”) are deprived from their fundamental right to appropriate education on the basis of language, and to comment on the report (“**HK Report**”) submitted by the People’s Republic of China (“**China**”) to the UNCERD in respect of the Hong Kong Special Administrative Region (“**HKSAR**”).

The HK Report claims that Hong Kong combats all forms of discrimination¹ however the UNCERD’s existing concerns about the omission of protection against indirect discrimination on the basis of language² have not yet been addressed. In addition, the substantive parts of the Race Discrimination Ordinance (“**RDO**”) are not yet in force and no specific timetable has been set for implementation.

The Equal Opportunities Commission (“**EOC**”) admitted in a letter dated 28 April 2008³ to Growing Together that *“the distinguishing feature between NCS children with SEN and Chinese-speaking children with SEN is their different language preference. While the admission to...62 aided special schools and the 641 special classes in mainstream schools may in theory be open to NCS children with SEN, it seems clear that admission to these schools is not a practicable solution to their needs in the light of their own or their family’s language preferences”*. The EOC however declines having the authority or duty to look into the matter further.

Hong Kong is unable to provide specific figures as to the number of SEN children (whether NCS or Chinese speakers) on the territory⁴. The lack of official figures unfortunately prevents Growing Together from giving to the UNCERD the precise number of NCS children suffering from the discrimination in comparison to Chinese speakers.

Growing Together wishes that positive steps be taken to ensure that all children enjoy an equal right to appropriate education without discrimination.

We have summarised our discussions with the local authorities in Annex 2 and attached copies of relevant communications to Annex 3. Should you have any query, please do not hesitate to contact us.

¹ Paragraph 62, HK Report

²² Letter dated 7 March 2008 from Fatima Bintu Victoire Dah, Chairperson of the UNCERD, to the permanent representative of China, provided in Annex 3.

³ Letter dated 28 April 2008 from the EOC to Fernando Cheung, chairman of the subcommittee to study issues relating to the provision of boarding places, senior secondary education and employment opportunities for children with special educational needs, provided in Annex 3.

⁴ Even in public sector schools (other than the 18 designated schools accommodating for 22 NCS children with SEN), see minutes of meeting of the Legislative Council dated 12 June 2008, paragraph 55.

NCS children with SEN are deprived from their fundamental right to appropriate education on the basis of language, in breach of the International Convention on the Elimination of All Forms of Racial Discrimination (“Convention”).

Preliminary remarks:

Pursuant to the International Covenant on Economic, Social and Cultural Rights (1966) (“**ICESCR**”) and the Convention, state parties shall protect and guarantee children’s right to education without discrimination of any kind (including on the basis of language^{5 6}). We have set out in Annex 1 some of the relevant provisions of the international and local instruments relating to the right to education.

The right to “*education shall be directed to the full development of the human personality and the sense of its dignity, and to strengthen the respect for human rights and fundamental freedoms... [E]ducation shall enable all persons to participate effectively in a free society and promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups*”⁷. The state has an obligation to ensure that the liberty of individuals to establish and direct educational institutions “*does not lead to extreme disparities of educational opportunity for some groups in society*”⁸.

A. Facts

1. English and Chinese are the two official languages of Hong Kong.
2. Most educational establishments are Chinese-medium schools.
3. Access to appropriate education is restricted by the disproportionately low number of government schools that are designated for NCS, especially those who have SEN:

3.1 Hong Kong offers 601 primary schools, 527 secondary schools and 61 special schools⁹ (60 for Chinese speakers and only 1 for NCS).

3.2 18 schools are designated for NCS (including those with SEN)¹⁰, representing less than 1.6% of schools.

3.3 11 of these designated schools are English-medium schools or offer English medium classes¹¹, representing less than 1% of schools.

3.4 The English Schools Foundation (“**ESF**”) offer a total of 193 places available for NCS students with SEN (primary and secondary levels combined). Other international schools offer an

⁵ ICESCR, article 2

⁶ In recent years the UNCERD has made recommendations to states related to the impact of their language policies, recognizing that language may constitute a ground of discrimination. See Concluding Observations to Mongolia (CERD/C/MNG/CO/18, 2006, para 21) and to Estonia (CERD/C/EST/CO/7, 2006, para 20). The preface of the Convention also refers to the observance of human rights and fundamental freedoms for all, irrespective of race, sex, religion or language as one of the purposes of the United Nations

⁷ ICESCR, article 13

⁸ United Nations, General Comment E/C/12/1999/10

⁹ <http://www.edb.gov.hk/index.aspx?langno=1&nodeID=396>

¹⁰ Submission of the EB dated 12 June 2008, provided in Annex 3

¹¹ Submission of the EB dated 12 June 2008, provided in Annex 3

additional 89 places for a total of only 287 places outside of the government school system. This represents 0.7% of the documented 38048 ethnic minorities under the age of 15 in Hong Kong in 2006. Internationally accepted standards indicate that it is reasonable to consider that 6% of a population can have some type of SEN; which would represent about 2280 potential students. Government schools (which accommodated for 22 NCS children with SEN in 2006), ESF and other international schools together provide 301 documented SEN places in schools designated for NCS students, a short fall of about 1979 places. As of April 2008, 103 NCS children with SEN were on the waiting list a place in a government school. The average waiting time is 24 to 36 months.

3.5 On the other hand, Chinese-speaking children with SEN have access to appropriate education through 61 (60 for Chinese speakers and only 1 for NCS) aided schools and 641 special education classes in the mainstream schools. The difference in their effective enjoyment of their fundamental right to education is due to their language. Denying a child access to appropriate education in the official language of English is discriminatory on the basis of language and denies that child a basic and fundamental human right. Treating alike different groups of children is no justification when the effect of equal treatment perpetuates discriminatory practices.¹²

5. The availability of SEN places is left to each school's discretion.

6. The NCS children with SEN left behind by the current policies would either need to be lucky enough to come from a wealthy family able to pay for private education or they would have no choice but to attend school in a language that they do not understand. They do not have "alternatives" despite what paragraph 179 of the HK Report suggests. ESF and private international schools are only available to a small number and cannot be viewed as "alternatives".

6.1 School fees for private international schools vary between HKD28,000 and HKD150,000 per year whereas the median salary in Hong Kong is around HKD10,000 per month¹³ (i.e.:HKD120,000 per year). Private schools are therefore out of reach for the vast majority.

6.2 *"If the child does not understand the language of instruction, no learning can take place ... This does not mean that the government has an obligation to ensure the teaching and learning of all languages in the country as this would be simply impossible ... Learning other-than-official languages does not burden governments to provide and/or finance such education".* The best practice to eliminate all barriers to learning would be *"adjustment to language, religion, provenance, disability, family environment, health status and so forth"*.¹⁴

7. The Hong Kong authorities explain¹⁵ that NCS students who would cope better with English as a medium of instruction must compete with other local students for entry to the limited number of English-medium schools. In our view, it would be completely unrealistic and unfair to expect NCS children with SEN to compete with typically developing students for the enjoyment of their fundamental right to appropriate education. Current policies place these students at a disadvantage when compared to Chinese speaking students, both typically developing and those with SEN.

8. Although the HK Report claims that:

¹² in response to paragraph 175 of the HK Report

¹³ 2006 Hong Kong Population By-census; 2006 Population By-census Office; Hong Kong Census and Statistics Department

¹⁴ Manual on Rights-Based Education - Collaborative project between the UN special rapporteur on the rights to education and Unesco Asia and Pacific Regional Bureau for Education (2004), Dakar Framework for Action (2000).

¹⁵ HK Report, paragraph 175

8.1 the government is “committed to the promotion of equal opportunities for all” and that it believes that “all forms of discrimination ... are wrong”, and further explains that “each form of discrimination has its own characteristics”, and that those strategies “must be tailored and appropriate to the particular form of discrimination that they are intended to address ... in the interest of social harmony, and that the promotion of integration and public education on equality remain essential to eliminate prejudice and discrimination”¹⁶;

8.2 “the prosperity of Hong Kong is founded, among other things, on its cosmopolitan nature and the contribution of its people from different background and ethnic origin”, and that “racial harmony is a particularly important cornerstone for harmony”¹⁷; and that

8.3 “the Education Bureau issued a circular on *The Principle of Equal Opportunities in December 2003*” reminding all schools of their role and of their duty to “eliminate all forms of discrimination on grounds of sex, class, race, disability and so forth” so as to “avoid any form of discrimination”¹⁸ (the circular includes a duty to eliminate discrimination on grounds of language),

the situation of NCS children with SEN has not been addressed.

9. The HK Report further appears to combat all forms of discrimination¹⁹ however the UNCERD’s existing concerns²⁰ about the omission of provisions against indirect discrimination on the basis of language have not yet been addressed²¹.

10. The EOC admitted in a letter dated 28 April 2008²² to Growing Together that “the distinguishing feature between NCS children with SEN and Chinese-speaking children with SEN is their different language preference. While the admission to...62 aided special schools and the 641 special classes in mainstream schools may in theory be open to NCS children with SEN, it seems clear that admission to these schools is not a practicable solution to their needs in the light of their own or their family’s language preferences”. The EOC however declines having the authority or duty to look into the matter further. We have set out in Annex 2 a summary of our discussions with the EOC and the Education Bureau.

11. The substantive parts of the RDO are not in force and no timetable is set for implementation. The RDO does not address language discrimination. In addition, section 26(2) sets out that although discrimination from educational establishment is prohibited, the responsible body cannot be required in any event to modify arrangements in respect of medium of instruction.

¹⁶ HK Report, Paragraph 62

¹⁷ HK Report, Paragraph 73

¹⁸ HK Report, paragraph 173

¹⁹ HK Report, paragraph 62

²⁰ Letter dated 7 March 2008 from Fatima Binta Victoire Dah, Chairperson of the UNCERD to the Permanent Representative of China, provided in Annex 3

²¹ Paragraph 62 of the HK Report highlights the importance attached to the promotion of human rights through public education and publicity. Public awareness is necessary to achieve acceptance, tolerance, equality and friendship among all people and to teach to all the human inalienable rights and values of mankind.

²² Letter dated 28 April 2008 from the EOC to Fernando Cheung, chairman of the subcommittee to study issues relating to the provision of boarding places, senior secondary education and employment opportunities for children with special educational needs, provided in Annex 3

B. Impact of the current policies on NCS children with SEN

12. The communication required between teachers and parents to permit a child to develop to the fullest potential may at worst be nonexistent and at best be impaired. A child learns and develops at school and in the home. If the parents cannot understand the language in which their child is educated, they will be unable to support and understand the child who is likely to feel left behind and isolated. The support of parents is paramount to the development of children with SEN. Imposing that NCS children with SEN be educated in Chinese has the effect of depriving those children of an appropriate education and of their parents' support.

13. Parents may be unable to follow their child's progress. A child's difficulties may also remain undiscovered. A child left behind may feel misunderstood, useless and rejected from close ones and society more generally.

14. Those children are also likely to struggle to find their place within society. The most basic education needs (i.e.: speak, read and write) may not be adequately fulfilled. If they miss the basic skills, those children will not have the opportunity to receive appropriate education or training to enter into the workforce and will therefore find it hard to integrate society.

15. Instead of promoting understanding, tolerance and friendship, the current policies have a discriminatory effect and set a poor example to the population. This creates an obvious risk of stigmatization of these children. Instead of working towards integration, schools perpetuate the discriminatory model.

Should you have any query, please do not hesitate to contact us.

Yours faithfully,

Abbi DeLessio
Chairperson
Growing Together Limited

C. Recommendations

1. Implement the RDO.
2. Recognize language discrimination.
3. Modify section 26(2) of the RDO pursuant to which educational establishments cannot be required to modify the medium of instruction.
4. Increase number of places in English-medium schools and if necessary, plan for more schools.
5. Impose a requirement that each school (including private international schools) allocate a certain number of places to NCS children with SEN.
6. Implement funding and coordination services that will give incentive to private international schools to welcome NCS children with SEN.

Annex 1 - Right to education

I. International treaties

(1) International Covenant on Economic, Social and Cultural Rights (1966)

“The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace”²³.

(2) International Convention on the Elimination of All Forms of Racial Discrimination

The state parties shall:

- (i) *“prohibit and ... eliminate racial discrimination in all its forms and ... guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of ... the right to education and training” (article 5(e)(v));*
- (ii) *“adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention” (article 7);*
- (iii) *“pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end... undertakes to engage in no act or practice of racial discrimination ... and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; ...undertakes not to sponsor, defend or support racial discrimination by any persons or organizations; ... shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; ...shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization; ... undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division”. (see article 2).*

"Racial discrimination" is defined as *“any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”*. (see article 1.1).

²³ICESCR, article 13 (1)

II. Hong Kong laws

(1) Basic Law

Article 39

“The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.

The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law.”

Article 136

“On the basis of the previous educational system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of education, including policies regarding the educational system and its administration, the language of instruction, the allocation of funds, the examination system, the system of academic awards and the recognition of educational qualifications.

Community organizations and individuals may, in accordance with law, run educational undertakings of various kinds in the Hong Kong Special Administrative Region.”

Article 9

“In addition to the Chinese language, English may also be used as an official language by the executive authorities, legislature and judiciary of the Hong Kong Special Administrative Region. “

(2) Race Discrimination Ordinance

The substantive parts of the RDO that should render discrimination, harassment and vilification on ground of race unlawful are not yet in effect. Section 26(2) provides that the provisions of the RDO cannot be construed as requiring an educational establishment to modify the language of instruction.

Annex 2 - Summary of Growing Together's discussions with the Education Bureau and the EOC

Beginning in April 2008, Growing Together (GT) has engaged the Hong Kong Executive Authorities, specifically the Education Bureau (EDB) and the Equal Opportunities Commission (EOC) in a series of communications addressing the concerns detailed in this paper. A summary of these communication follows, please see attached documentation in Annex 3 for full texts.

I. Communication with EOC

- Preliminary communication with EOC focused on lack of parity between services available for Chinese speaking and non-Chinese speaking (NCS) children with special educational needs (SEN) and raised the issue of possible breach of international human rights treaties applicable to Hong Kong and the provisions of the Hong Kong Disability Discrimination Ordinance (DDO)
- EOC reply recognized:
 - lack of parity between school places available for NCS children with SEN and Chinese speaking students with SEN
 - NCS children with SEN are in a relatively disadvantaged position when compared to Chinese speaking children with SEN.
 - Any direct discrimination arising from this situation is likely to be defined as language discrimination.
 - Discrimination in this situation was likely not indirect disability discrimination and the provisions of the DDO would not be of much assistance.
 - Solution to the problem lies in devoting more resources to NCS children with SEN.
- GT follow up communication focused on the ability of the EOC to effectively redress the language discrimination recognized in the EOC's communication; specifically was the EOC able to
 - Assist individuals other than those who are victims of disability, sexual or family status discrimination
 - Investigate and address specific violations of Hong Kong's Bill of Rights Ordinance (BORO), Hong Kong's Basic Law and Hong Kong's international obligations in respect to discrimination or human rights issues
- EOC reply reinforced mandate of EOC:
 - Delineated by local laws; jurisdiction and functions currently defined by Sex Discrimination, Disability Discrimination and Family Status Discrimination Ordinances.
 - EOC does not have power or jurisdiction to enforce BORO, the Basic Law or Hong Kong's international obligations in respect to discrimination or human rights issues that do not fall under the above ordinances
 - Disadvantage faced by children NCS children with SEN does not fall under the ordinances and therefore cannot be investigated or addressed by EOC.

II. Communication with EDB

- Preliminary communication with EDB focused on lack of parity between services available for Chinese speaking and NCS children with SEN as well as inadequacies of existing EDB policies in respect to NCS children with SEN. GT communication also made recommendations to reach and maintain parity
- EDB reply recognized:
 - Chinese and English are the two official languages in Hong Kong
 - Chinese is the main medium of instruction in most primary and secondary schools

- Hong Kong compares favorably to other developed countries providing support for newly arrived non-local students to help them adapt to local education system, including children with SEN.
- NCS children, including those with SEN, are encouraged to study in public sector schools to facilitate their integration into the local community.
- It is the policy of the EDB to accommodate the needs of NCS students with SEN in the public school sector through ‘various measures’
- If there is unmet demand for services in the public sector the EDB will examine provisions for the sector.
- International schools are not intended to meet unmet demand for services in the public sector; it is the policy of the EDB not to micro-manage these institutions.
- EDB did expect that these international schools would provide equal opportunities for all students.
- GT follow up communication requested following information from EDB
 - Detailed comparison of Hong Kong’s programs for children with SEN with those offered in other developed countries
 - Specific details of ‘various measures’ in place to support NCS children with SEN.
 - Further explanation of the EDB’s previously stated policy of encouraging NCS children with SEN to attend Chinese language immersion programs to facilitate integration into local community.
 - Explanation of the relationship between EDB and international schools and how the EDB would ensure the international schools were providing equal opportunities when there was no managerial oversight for EDB over international schools.
 - How the EDB planned to meet the unmet demand for services that was implied in their communication.
 - There was no response from EDB to these specific queries.

III. Letter writing Campaign

- In June 2008, GT implemented a letter writing campaign to Donald Tsang, Hong Kong’s Chief Executive; Letters were from parents and siblings of NCS children with SEN as well as teachers, therapists and other caregivers.
 - Letters focused on individual, first-hand experiences as well as lack of parity between services available for Chinese speaking and NCS children with SEN as well as inadequacies of existing EDB policies in respect to NCS children with SEN. Previously mentioned GT recommendations were also included.
- Chief Executive replied to each letter with a short message stating the matter had been turned over to EDB for review and reply.
- EDB reply recognized:
 - Chinese and English are the two official languages in Hong Kong
 - Chinese is the main medium of instruction in most primary and secondary schools
 - Hong Kong compares favorably to other developed countries providing support for newly arrived non-local students to help them adapt to local education system, including children with SEN.
 - NCS children, including those with SEN, are encouraged to study in public sector schools to facilitate their integration into the local community.
 - It is the policy of the EDB to accommodate the needs of NCS students with SEN in the public school sector through ‘various measures’

Annex 3 - Copies of relevant communications between Growing Together (GT) and the Equal Opportunities Commission (EOC) and Education Bureau (EDB)

Attached please find:

- Communications between GT and the EDB and the EOC.
 - Fernando Cheung Letter to EOC & Financial Secretary 9 April 2008
 - Financial Secretary Reply 24 April 2008
 - EOC Reply Cheung 28 April
 - GT Letter to Donald Tsang 30 April 2008
 - WU PoLing Reply to Fernando Cheung 16 May 2008
 - GT Reply to WU PoLing 26 May
 - GT Reply to EOC 27 May
 - EDB Reply Itong 13 June 2008
 - EDB Reply McCann 13 June 2008
 - EDB Reply Wilson 13 June 2008
 - EDB Reply Lew 16 June 2008
- EDB Submissions to Hong Kong Legislative Council and GT Replies
 - GT Position Paper 31 March 2008
 - EDB Submission 3 April 2008
 - EDB Submission 12 June 2008
 - GT Reply to EDB 12 June Submission
- Minutes of Relevant Hong Kong Legislative Council Meetings
 - Minutes 3 April 2008 Hong Kong Legislative Council SEN Subcommittee Meeting
 - Minutes 12 June 2008 Hong Kong Legislative Council Education Panel Meeting
 - Minutes 19 January 2009 Hong Kong Legislative Council Panel on Constitutional Affairs Meeting
- Miscellaneous
 - 7 March 2008 letter from Fatima Binta Victoire Dah, Chairperson of the UNCERD, to the permanent representative of China.



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LEGISLATIVE COUNCIL

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電話 TELEPHONE : 2509 4431

圖文傳真 FACSIMILE : 2332 1893

LC Paper No. CB(2)1599/07-08(01)

By Fax (2840 0569)

9 April 2008

Mr John TSANG Chun Wah, JP
Financial Secretary
5/F, Main Wing
Central Government Offices
Lower Albert Road
Central
Hong Kong

Dear Mr TSANG,

**Subcommittee to Study Issues Relating to the Provision of
Boarding Places, Senior Secondary Education and Employment
Opportunities for Children with Special Educational Needs**

**Education for non-Chinese-speaking children
with special educational needs**

I write on behalf of the Subcommittee concerning the provision of education for non-Chinese-speaking (NCS) children with special educational needs (SEN).


The Subcommittee received the views of 13 organizations and six individuals on the subject at its meeting on 3 April 2008. These organizations and individuals have pointed out that the special educational needs of Chinese-speaking children are catered for through 62 aided special schools and 641 special education classes in the mainstream schools. However, the only Government subvented English-speaking school which admits NCS children with SEN is The Jockey Club Sarah Roe School with 60 places operated by The English Schools Foundation (ESF). ESF also provides 126 places in the learning support classes in its mainstream schools. Currently, 103 children are on the waiting list for the limited places in ESF's learning support classes and The Jockey Club Sarah Roe School. The average waiting time is 24 to 36 months. Altogether, the subvented school places available to NCS children with SEN are less than 200. As independent international schools are reluctant to admit NCS children with SEN on resources consideration, many NCS children with SEN are given no choice but to enrol in public sector mainstream schools adopting Chinese as the medium of instruction. These children are struggling hard to learn in a language that is not conducive to the realization of their full potential.

Members are gravely concerned about the inadequate provision of education opportunities for NCS children with SEN to learn in English or their mother-tongue. Apparently, there is a lack of parity between the services provided for Chinese speaking and NCS children with SEN. NCS children with SEN are in dire need of equal opportunities in education to maximize their chances in life. Members are given to understand that some expatriates have left Hong Kong solely because of the lack of appropriate education services for their children with SEN. Members consider that without the provision of sufficient and affordable education services for NCS children with SEN, Hong Kong can hardly attract or retain talents from all over the world to maintain its competitiveness.

Members are of the view that the responsibility for providing education for NCS children with SEN falls squarely on the Administration. Increased funding to ESF to enable its provision of more learning support classes in its mainstream schools and more places in The Jockey Club Sarah Roe School is urgently needed. The provision of appropriate Government support for independent international schools is necessary to encourage their sharing of the responsibility for providing education for NCS children with SEN. Members call on the Administration to critically and expeditiously review its policy on the provision of education for NCS children with SEN and the allocation of resources for that purpose. They have asked me to convey to you their requests for an increase of resources for the provision of equal opportunities in education for NCS children with SEN and a review of the Government policy in that regard.

As the Subcommittee is winding up its work, I should be grateful for your response **by the end of April 2008.**

Yours sincerely,



(Fernando CHEUNG Chiu-hung)
Chairman of Subcommittee

c.c. Secretary for Education
Secretary for Labour and Welfare



立法會

LEGISLATIVE COUNCIL

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電話 TELEPHONE : 2509 4431

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LC Paper No. CB(2)1599/07-08(02)

By Fax (2511 8142)

9 April 2008

Mr Raymond TANG Yee Bong
Chairperson
Equal Opportunities Commission
19/F, Cityplaza Three
14 Taikoo Wan Road
Taikoo Shing
Hong Kong

Dear Mr TANG,

**Subcommittee to Study Issues Relating to the Provision of
Boarding Places, Senior Secondary Education and Employment
Opportunities for Children with Special Educational Needs**

**Education for non-Chinese-speaking children
with special educational needs**

I write on behalf of the Subcommittee concerning the provision of education for non-Chinese-speaking (NCS) children with special educational needs (SEN).

The Subcommittee received the views of 13 organizations and six individuals on the subject at its meeting on 3 April 2008. These organizations and individuals have pointed out that the special educational needs of Chinese-speaking children are catered for through 62 aided special schools and 641 special education classes in the mainstream schools. However, the only Government subvented English-speaking school which admits NCS children with SEN is The Jockey Club Sarah Roe School with 60 places operated by the The English Schools Foundation (ESF). Together with the 126 places in learning support classes run by ESF mainstream schools, the subvented school places available to NCS children with SEN are less than 200. The average waiting time for the limited places in ESF's learning support classes and The Jockey Club Sarah Roe School is 24 to 36 months. As independent international schools are reluctant to admit NCS children with SEN on resources consideration, many NCS children with SEN are given no choice but to enrol in public sector mainstream schools adopting Chinese as the medium of instruction. These children are struggling hard to learn in a language that is not conducive to the realization of their full potential.

Members are gravely concerned about the inadequate provision of education opportunities for NCS children with SEN to learn in English or their mother-tongue. Apparently, there is a lack of parity between the services provided for Chinese speaking and NCS children with SEN. NCS children with SEN are in dire need of equal opportunities in education to maximize their chances in life. Members are concerned whether the present situation is in breach of the international human right treaties applicable to Hong Kong and the provisions of the Disability Discrimination Ordinance. They have asked me to seek the views of the Equal Opportunities Commission on the matter.

As the Subcommittee is winding up its work, I should be grateful for your response **by the end of April 2008.**

Yours sincerely,



(Fernando CHEUNG Chiu-hung)
Chairman of Subcommittee

c.c. Secretary for Education
Secretary for Labour and Welfare



Tel : 2810 2022
Fax : 2840 0569
Your Ref : CB2/HS/2/04

24 April 2008

Dr Hon Cheung Chiu Hung, Fernando
Legislative Council
8 Jackson Road
Central

Dear Dr Cheung,

**Subcommittee to Study Issues Relating to the Provision of
Boarding Places, Senior Secondary Education and Employment
Opportunities for Children with Special Educational Needs**

**Education for non-Chinese-speaking children
with special educational needs**

The Financial Secretary has asked me to thank you for your letter of 9 April 2008.

Provision of education opportunities for children with special educational needs (SEN) is an integral part of the overall education system. Our established policy is to implement integrated education for students with SEN, including those non-Chinese-speaking children with SEN, in mainstream public sector schools. For children with severe, profound or multiple disabilities who are unable to benefit from mainstream education, they may attend special schools. The Administration is committed to providing all eligible children, irrespective of ethnic origin and physical or intellectual ability, with the opportunity to enjoy basic education in public sector schools. The Financial Secretary has asked the Secretary for Education to reply to you and explain the policy in detail. We understand that the Education Bureau is considering the views and suggestions raised

at the Subcommittee's meeting of 3 April 2008. We will deal with any improvement measures requiring additional resources in accordance with the established procedures of resource allocation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Freely K Cheng', with a long horizontal stroke extending to the right.

(Freely K Cheng)
Administrative Assistant to
Financial Secretary

c.c. Secretary for Education
 Secretary for Labour and Welfare



平等機會委員會

EQUAL OPPORTUNITIES COMMISSION

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28 April 2008

By Fax: 2332 1893 Only

Dr. Hon. Fernando CHEUNG
Chairman of Subcommittee to
Study Issues Relating to the Provision of Boarding
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Employment Opportunities for Children
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8 Jackson Road, Central
Hong Kong

Dear Dr. Hon. Cheung,

**Subcommittees to Study Issues Relating to the Provision of
Boarding Places, Senior Secondary Education and Employment
Opportunities for Children with Special Education Needs**

**Education for non-Chinese-speaking children
with special educational needs**

I refer to your letter dated 9 April 2008 to the Commission's Chairperson. The Chairperson has instructed me to consider the issues raised and respond accordingly.

The Subcommittee is concerned that there is a lack of parity between the number of subvented school places available for non-Chinese-speaking (NCS) children with special educational needs (SEN) and the number of subvented school

places available for Chinese-speaking children with SEN. The information outlined in your letter indicates that the number for the former is less than 200, and the number for the latter is significantly more (the exact number is not clear from your letter, except that there are 62 aided special schools and 641 special classes in mainstream schools catering for Chinese-speaking children with SEN). NCS children with SEN are in a relatively disadvantaged position when compared to Chinese-speaking children with SEN.

The distinguishing feature between NCS children with SEN and Chinese-speaking children with SEN is their different language preference. While admission to the above 62 aided special schools and the 641 special classes in mainstream schools may in theory be open to NCS children with SEN, it seems clear that admission to these schools is not a practicable solution to their needs in the light of their own or their family's language preference.

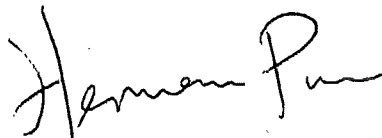
The issue is one about language. Any direct discrimination arising from this situation is likely to be defined as language discrimination. Generally speaking, language discrimination may in some circumstances constitute indirect discrimination on the ground of another characteristic such as race if, for example, the same rule applies to people of different races but one race would suffer a disadvantage when compared to another race.

As for disability, however, language discrimination in the above situation is unlikely to be indirect disability discrimination. The disadvantage identified in your letter arises from a comparison between people having the same disability. The difference is language not disability. In this context, the provisions of the Disability Discrimination Ordinance are unlikely to be of much assistance to NCS children with SEN.

The solution to the problem is likely to lie in devoting more resources to NCS children with SEN. This will depend on setting priorities between competing interests in the light of resources available. In the end, a sustainable and satisfactory allocation of resources is likely to come through a continuous process of dialogue among policy-makers and different interests, arriving at an agreeable balance for all concerned. The EOC hopes all parties to the process will show understanding of the needs of others and to strive to meet those needs.

As for whether there is any illegal language discrimination or race discrimination under international human right treaties, or indeed under the Basic Law or Hong Kong Bills of Rights Ordinance, authoritative experts on these instruments will be better placed to give advice, after examining the relevant Government policies in the light of available resources and constraints.

Yours faithfully,



Herman L.H. Poon

Chief Legal Counsel

Equal Opportunities Commission

cc: Secretary for Education (Fax: 2523 1973)
Secretary for Labour and Welfare (Fax: 2893 0858)

By Mail & Email
ceo@ceo.gov.hk

The Hon Donald TSANG Yam-kuen, GBS, JP
Chief Executive of the Hong Kong Special Administrative Region People's Republic of China
5/F, Central Government Office
Main Wing, Lower Albert Road
Hong Kong

30 April 2008

Dear Mr. Tsang,

On April 3, 13 organizations and 6 individuals presented their views regarding this issue to the Subcommittee Studying Issues relating to Provisions for Children with Special Educational Needs (SEN). Growing Together (representing over 200 members), a group advocating an inclusive society for people of all ages with SEN, submitted a position paper to the Subcommittee and the administration recommending specific actions that should be taken to address and eliminate this discrimination. These recommendations are:

a. Parity with Chinese Speaking students with SEN

The Hong Kong Government should make financial support available to non Chinese speaking children with SEN equivalent to any child who speaks Chinese.

b. Establish a foundation or Independent Grants Committee for international schools

A foundation similar to the University Grants Committee established to oversee relevant educational matters which would also offer a comprehensive resource centre for parents, educators and students. This foundation would also be responsible to liaise with all the international schools regarding the provision of SEN programs.

c. Education Continuum

The government should explore options for continuum services as students reach their adult years including employment opportunities and residential care facilities to support independence.

The EDB has made clear its position on non Chinese speaking children with SEN (LC Paper No.CB(2) 1465/07-08(02)): "NCS children are encouraged to attend local kindergartens using Chinese as a medium of instruction." For NCS students with SEN, many of whom struggle with verbal communication in any language, forcing them to adapt to a system where the medium of instruction is Chinese clearly does not meet the needs of the child or international good practice. Rather, this effort to teach a child in a language that neither the child nor the family understands results in a deprivation of service and a de facto discrimination.

I implore you to review the Growing Together position paper with all due haste. Every child has a right to an appropriate education. In a World Class City like Hong Kong, why do we ask some of our society's most vulnerable to adapt to a system that, as structured, will not provide the maximum benefits? Hong Kong's resources are abundant and its policies, if not their implementation, do support best practices for the education of children with SEN, just not ALL children. It is incumbent upon the government to effect changes to the system that will ensure all students with SEN receive the education they are entitled to.

The existing families of Growing Together needs your help, and all non Chinese speaking children with SEN who come after them also needs your help. Please implement these recommendations and provide that help. I look forward to working with you and your administration, and your reply.

Sincerely,

Virginia Wilson
Growing Together

cc

LEGCO Panel on Education - Chairman and all Members of the Panel
Education Bureau - Mr. Michael Suen, , Secretary for Education edbinfo@edb.gov.hk, Mr. Raymond Wong,
Permanent Secretary for Education raymondhchwong@edb.gov.hk , Mr. M. Y. Cheng, Deputy Secretary (Ed) 3

School Administration and Professional Development Branch mycheng@edb.gov.hk , Miss WU Po-ling Principal
Assistant Secretary (SAS) passas@edb.gov.hk

By fax & mail



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213 Queen's Road East
Wan Chai, Hong Kong

中華人民共和國香港特別行政區政府總部教育局
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來函檔號 Your Ref.:

傳真 Fax Line: 21199061

16 May 2008

Dr Hon Cheung Chiu Hung, Fernando
Legislative Council
8 Jackson Road
Central

Dear Dr Cheung

**Subcommittee to Study Issues Relating to the Provision of
Boarding Places, Senior Secondary Education and Employment
Opportunities for Children with Special Educational Needs**

**Education for non-Chinese-speaking children
with special educational needs**

I refer to the Financial Secretary's reply dated 24 April 2008 to you, stating that the Secretary for Education would give you a further reply to explain our policy on the education for non-Chinese-speaking (NCS) students with special educational needs (SEN).

The Administration has always attached great importance to education, and tremendous efforts and resources have been devoted to it to cater for the needs of all students, including NCS students and those with SEN. Like other developed countries which provide support and remedial services for newly arrived non-local students to help them adapt to the local education system, we adopt an inclusion policy for all NCS

students. Not only do we offer newly arrived NCS children with school places in public sector schools, but we also provide various types of support and remedial services to help them integrate into the local education system. On top of this, we provide public sector schools with additional support and resources to cater for the needs of students with SEN, including the NCS students.

On language in education, Chinese is the main medium of instruction in most primary and secondary schools, with English taught as a core subject from Primary One. We also have quite a number of public sector schools adopting English as the teaching medium. Since Chinese and English are the two official languages in Hong Kong, NCS children, including those with SEN, are encouraged to study in public sector schools adopting Chinese or English as the teaching medium to facilitate their integration into the local community. In general, schools are obliged to cater for the diverse needs of their students and the Education Bureau provides additional funding and support to facilitate these schools to implement integrated education. In sum, it is our prevailing policy to accommodate the needs of NCS students with SEN in the public school sector through various measures. If there is any unmet demand for services in the public sector, we are prepared to tackle the problem by examining provisions for the sector.

Notwithstanding, there are other education opportunities outside the public sector for NCS students, including those with SEN, who have their own language and /or curriculum preference. Fifteen English Schools Foundation (ESF) Schools receiving a small percentage of their income from government funding and 38 private international schools are providing alternatives for NCS students. These are alternatives outside the public sector to provide choices in an open market, with minimum intervention from the Government. By design, they are not intended for meeting any unmet demand for services in the public sector.

Regarding international schools' role in supporting SEN students, we would like to emphasize that while it is our established policy not to micro-manage the international schools, which are operated on a self-financing basis in the commercial market, the schools should provide equal opportunities for all students in terms of student admission, teaching curriculum and assessment, etc. We appreciate the Subcommittee's concern on the provision of learning support classes and special education places in ESF schools which also receive some

subvention from the Government. Notwithstanding that there will be a separate subvention review upon implementation of the governance reform of ESF, we will adopt an open mind to explore with ESF the possibility of further enhancing the provision of school places and support for NCS students with SEN in parallel.

Please rest assured that we will continue to strive hard to provide quality service to support all students, irrespective of their ethnic origin and physical or mental ability, and accord appropriate priority to competing demands in a prudent manner.

Yours sincerely



(Miss P L WU)
for Secretary for Education

c.c. Financial Secretary
Secretary for Labour and Welfare

Miss WU Po Ling
Principal Assistant Secretary
Education Bureau
15/F Wu Chung House
213 Queen's Road East
Wan Chai, Hong Kong

26 May 2008

Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs.

Education for non-Chinese speaking children with special educational needs.

Dear Miss WU,

I write in response to your reply to Dr. Fernando CHEUNG Chiu-hung regarding ongoing efforts to increase and improve educational provisions for non-Chinese speaking (NCS) children special educational needs (SEN).

Your letter favourably compares the programming offered by Hong Kong to NCS children with SEN with programming offered in other developed countries. Following are some of the pertinent policies that support the SEN programming offered in other developed countries:

- Individual adapting of teaching methods and programming for students from linguistic and cultural minorities
- Entitlement to instruction adapted to the child's prerequisites
- Differentiated teaching methods as an overall principle of schools
- Accommodations in place to meet unique needs of students
- Programming best adapted to meet the child's individual needs
- Accessibility to special arrangements and activities
- Freedom to learn at individual pace

Are these program initiatives currently in place for NCS students with SEN? Can you please details what specific programming is available and for what types of students/SEN said programming is offered?

You give particular emphasis to ‘newly arrived’ NCS children and the remedial support offered to help them integrate into the local system. Scant attention is given to the support offered to NCS students with SEN. Can you please provide additional details about the support offered to these students? As you note, English is one of the official languages in Hong Kong, why then is the support offered to NCS students with SEN not an English language curriculum fully developed in English? Additionally, no mention is given to NCS students with SEN who were born here in Hong Kong. What are the support measures that are established to address the needs of this segment of the population that knows no other home than Hong Kong?

You note in your letter that “it is the prevailing policy of the EDB to accommodate the needs of NCS students with SEN in the public school sector through various measures.” At the 3 April LegCo Subcommittee meeting, you made clear the administration’s position on NCS children with SEN as stated in LC Paper No. CB(2) 1465/07-08(02): “NCS children are encouraged to attend local kindergartens using Chinese as a medium of instruction.” Are there measures in place that offer an alternative to immersing NCS children with SEN in a Chinese language program? The Education Bureau’s website cites worldwide and Hong Kong research as showing that mother-tongue teaching is generally the most effective teaching tool for students. What provisions are in place for students whose mother-tongue is not Chinese? Does the EDB recognize only one mother-tongue for all of the students in Hong Kong?

In referencing opportunities available outside the public system for NCS students with SEN, you refer to 15 ESF schools and 38 private international schools that provide alternatives for NCS students. In this context, there is no mention of services for NCS students with SEN. Can you provide a list of the private international schools (other than ESF) that do provide programming for NCS students with SEN and also the type of programming provided? You also cite these alternatives as being “outside the public sector to provide choices in an open market, with a minimum of interference from the government.” Is the implication that international schools are viewed as business concerns, not to be viewed as providers of a fundamental public service – one which is a basic right for all children? Your letter goes on to state that while it is the policy of the administration not to micro-manage international schools, international schools should provide equal opportunities for all students in terms of admission, curriculum and assessment. If the EDB, by virtue of its policies, does not have any managerial oversight regarding international schools, through what mechanism are they holding these schools accountable for providing equal opportunities?

A final point made regarding international schools is that, by design, they are not intended for meeting any unmet demand for services in the public sector. The implicit point here is that as far as NCS students with SEN are concerned an unmet demand exists. If the administration feels that international schools are not intended to fill this unmet demand and the administration’s existing policies cannot adequately fill it, who will? Your letter implies that ESF should be the sole purveyor of services to NCS students with SEN. Assuming that one institution can adequately

solve this problem ignores its scope and magnitude as well as the resources that could be mobilized to solve it.

NCS children with SEN, their parents, families and caregivers all thank you for your attention to this matter and I look forward to the favour of your reply. Of course if you would like to discuss further or have any questions please feel free to contact me. It would be a pleasure to be able to speak to you further on this matter.

Sincerely,

Virginia Wilson
Chairman
Growing Together

Cc: Letters from children, parents, professionals to Donald Tsang and copied to relevant departments.

Attachments:

Press Clippings

Submission to EDB and LEGCO on non Chinese speaking SEN provisions

Mr. Raymond TANG Yee Bong
Chairperson
Equal Opportunities Commission
19/F Cityplaza Three
14 Taikoo Wan Road
Taikoo Shing, Hong Kong

27 May 2008

Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs.

Education for non-Chinese speaking children with special educational needs.

Dear Mr. TANG,

I write in response to your reply to Dr. Fernando CHEUNG Chiu-hung regarding ongoing efforts to increase and improve educational provisions for non-Chinese speaking (NCS) children with special educational needs (SEN).

Your letter correctly recognizes that NCS children with SEN are the victims of language discrimination and are in a relatively disadvantaged position when compared to Chinese speaking children with SEN. You go on to state that since this is not a case of discrimination based on disability, the Disabilities Discrimination Ordinance (DDO) is not applicable. Is the EOC only able to assist individuals who are the victims of disability, sexual or family status discrimination? As an agency committed to promoting diversity and equality, fostering an inclusive society in which all individuals are treated with respect and dignity and whose mission is to eliminate discrimination and promote equal opportunities, the EOC would be the appropriate government body to assist those who are the victims of any type of direct discrimination. Why is the purview of the EOC so limited? Isn't language discrimination a direct discrimination which would fall under the purview of the EOC in other developed countries?

This language discrimination is a form of racial discrimination which, in 1991, was specifically prohibited by the Bill of Rights Ordinance (BORO). Can the EOC assist us with a thorough investigation of this violation of the BORO and with the enforcement of this policy? Furthermore, denying a child access to appropriate services based on their language is a denial of a basic human right. As per Mrs. Carrie Lam in her 2006 address at the United Nations hearing of the Hong Kong SAR's second report in light of the International Covenant on Civil and Political Rights (ICCPR), "in the Hong Kong, human rights and freedoms are guaranteed constitutionally by the Basic Law." Can the EOC assist with the investigation of the violation of this constitutionally guaranteed right?

In addition, the Basic Law states that English is an official language of Hong Kong; how does the EDB justify their lack of support for programming in that language? This is another example of the type of discrimination that is expressly banned by the BORO and the Basic Law. As one of the Executive Authorities in Hong Kong, is the EDB not bound to uphold the Basic Law?

Lastly, on 30 March 2007, China became a signatory to the United Nations Convention on the Rights of Persons with Disabilities. By signing this convention, an obligation was created, in the period between signing and ratification, to refrain from acts that would defeat the object and purpose of the treaty. The objectives of the convention include non-discrimination, full and effective participation and inclusion in society, equality of opportunity and accessibility. By denying NCS children with SEN the right to receive services in any language other than Chinese, Hong Kong is defeating all of these objectives. How does Hong Kong reconcile its position as 'Asia's World City' with this defiance of an internationally accepted UN Convention?

NSC children with SEN are the victims of direct discrimination – discrimination that is prohibited by the BORO and the Basic Law. The parents and children of NCS children with SEN thank you for your time and attention in redressing this discrimination and I look forward to the favour of your reply. Of course if you would like to discuss further or have any questions please feel free to contact me. It would be a pleasure to be able to speak to you further on this matter.

Sincerely,

Virginia Wilson
Chairman
Growing Together

cc: Letters from children, parents, professionals to Donald Tsang and copied to relevant departments.

Attachments:
Press Clippings
Submission to EDB and LEGCO on non Chinese speaking SEN provisions



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13 June 2008

Mrs Itong, Maria Beatriz
mbmc@netvigator.com

Dear Mrs Itong,

Thank you for your letter dated 13 May 2008 to the Chief Executive. I would like to explain our prevailing policy and provide information with regard to your views and suggestions as follows:

In Hong Kong, eligible children irrespective of ethnic origin and physical or intellectual ability have the same right to enjoy basic education. It is Government's prevailing policy to accommodate the needs of non-Chinese speaking (NCS) students with special educational needs (SEN) in the public school sector through various measures, with a view to helping them develop their potentials and facilitating their integration into the Hong Kong community. As Chinese and English are the two official languages of Hong Kong, all public sector schools are required to teach English and Chinese as a subject. As for the medium of instruction (MOI), although most schools use Chinese as the main MOI, there are quite a number of public sector schools that adopt English as the teaching medium. We have pledged to help all eligible students, including NCS students with SEN, find a place in a public sector school using either Chinese or English as the main MOI, and we will ensure that they will be provided with support measures to cater for their needs.

The English Schools Foundation (ESF) schools and international schools provide alternatives for NCS students who have their own language and/or curriculum preference. These schools provide choices in an open market, with minimum intervention from the Government. Nevertheless, to better enable the ESF to address the demand of students with SEN, we have exceptionally provided ESF with

additional resources starting from the 2006/07 school year, which have enabled ESF to operate three additional learning support classes with 21 places for students with SEN. We are exploring with the ESF the possibility of further enhancing the provision of school places and support for NCS students with SEN in the ESF system.

For international schools, although they are operated on a self-financing basis in the commercial market, they, like the ESF schools, should provide equal opportunities for all students in terms of student admission, teaching curriculum and assessment, etc.

The Government does not see the need to establish an independent authority to oversee relevant educational matters for NCS students with SEN. Above all, the overall policy and provision of education for all students in Hong Kong, including NCS students with SEN, are overseen by EDB. Nevertheless, the Government welcomes voluntary organizations and different sectors in the community to collaborate with each other for the betterment of the younger generation.

We have pledged to provide a school place in the public school sector for every school-age child at primary and secondary levels. We also have aided special schools to cater for those students with severe or multiple disabilities/special educational needs (SEN) who cannot benefit from the ordinary school setting. These are measures to cater for the different needs of students.

Similarly, other than ordinary kindergartens, the Special Child Care Centre (SCCC) operating under the Social Welfare Department provides services for children aged between two and six with moderate and severe disabilities, and aims to develop these children's fundamental developmental skills and intellectual ability, as well as the perceptual-motor, cognitive, communication, social and self-care skills to facilitate their smooth transition from pre-school education to primary education. Residential facilities are also available in some SCCC's to cater for the needs of children with disabilities with families / parents who are unable to provide care to them.

For children with disabilities, pre-school training plays an important part in the rehabilitation of these children by minimizing the risks of the disability related impact on their physical, social or psychological developments, and helping them develop their potentials in full, thereby improving their opportunities for participating in ordinary schools and daily life activities and helping their families meet their special needs.

Thank you very much for your views and comments on the provision for NCS children with SEN. We hope the foregoing information will help clarify the Government's position.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Hera' or 'Hera CHUM', written in a cursive style.

(Miss Hera CHUM)
for Secretary for Education



中華人民共和國香港特別行政區政府總部教育局

Education Bureau

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13 June 2008

Mr Louise McCann
Head of Speech Therapy
The Child Development Centre at Matilda
41 Mount Kellet Road
The Peak
Hong Kong

Dear Mr McCann,

Thank you for your letter dated 9 May 2008 to the Chief Executive. I would like to explain our prevailing policy and provide information with regard to your views and suggestions as follows:

It is common practice for developed countries to provide support and remedial services for newly arrived non-local students, including those with SEN, to help them adapt to the local education system. Likewise, we encourage NCS children with SEN to study in public sector schools and learn the two official languages of Chinese and English, with a view to facilitating their integration into the Hong Kong community. Studying under the local education system does not mean that the NCS students are forced to learn in Chinese at all cost. Although most schools in Hong Kong adopt Chinese as the medium of instruction, there are also quite a number of English-medium schools which NCS children may seek admission, if the NCS students concerned (some of whom may not have English as their mother tongue) could indeed learn better in English. For instance, we have 18 designated schools for NCS children, which have enrolled students with SEN, and 11 of these schools are either English-medium schools or are offering English-medium classes. There are other English-medium schools which are not designated schools but which, like the 18 designated schools, are provided with additional resources for supporting SEN students such as the New Funding Mode or Integrated Remedial Teaching Programme

The English Schools Foundation (ESF) schools and international schools provide alternatives for NCS students who have their own language and/or curriculum preference. These schools provide choices in an open market, with minimum intervention from the Government. Nevertheless, to better enable the ESF to address the demand of students with SEN, we have exceptionally provided ESF with additional resources starting from the 2006/07 school year, which have enabled ESF to operate three additional learning support classes with 21 places for students with SEN. We are exploring with the ESF the possibility of further enhancing the provision of school places and support for NCS students with SEN in the ESF system.

For international schools, although they are operated on a self-financing basis in the commercial market, they, like the ESF schools, should provide equal opportunities for all students in terms of student admission, teaching curriculum and assessment, etc.

Thank you very much for your views and comments on the provision for NCS children with SEN. We hope the foregoing information will help clarify the Government's position.

Yours sincerely,



(Miss Hera CHUM)
for Secretary for Education



中華人民共和國香港特別行政區政府總部教育局

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13 June 2008

Ms Virginia Wilson
Chairperson
Growing Together
41 Mt. Kellett Road
The Peak
Hong Kong

Dear Ms Wilson,

Thank you for your letter dated 30 April 2008 to the Chief Executive, and your letters dated 8 May 2008 to the Secretary for Education, Permanent Secretary for Education, Deputy Secretary for Education 3, and Principal Assistant Secretary (School Administration and Support). I am explaining the Government's stance and providing further information with regard to your views and recommendations as follows:

Parity with Chinese Speaking students with SEN

In Hong Kong, eligible children irrespective of ethnic origin and physical or intellectual ability have the same right to enjoy basic education. It is Government's prevailing policy to accommodate the needs of non-Chinese speaking (NCS) students with special educational needs (SEN) in the public school sector through various measures, with a view to helping them develop their potentials and integrate into the local education system. As Chinese and English are the two official languages of Hong Kong, all public sector schools are required to teach English and Chinese as a subject. As for the medium of instruction (MOI), although most schools use Chinese as the MOI, there are quite a number of public sector schools that adopt English as the teaching medium. We have pledged to help all eligible students, including NCS

students with SEN, find a place in a public sector school using either Chinese or English as the MOI, and we will ensure that they will be provided with support measures to cater for their needs.

The English Schools Foundation (ESF) schools and international schools provide alternatives for NCS students who have their own language and/or curriculum preference. These schools provide choices in an open market, with minimum intervention from the Government. Nevertheless, to better enable the ESF to address the demand of students with SEN, we have exceptionally provided ESF with additional resources starting from the 2006/07 school year, which have enabled ESF to operate three additional learning support classes with 21 places for SEN students. We are exploring with the ESF the possibility of further enhancing the provision of school places and support for NCS students with SEN in the ESF system.

For international schools, although they are operated on a self-financing basis in the commercial market, they, like the ESF schools, should provide equal opportunities for all students in terms of student admission, teaching curriculum and assessment, etc.

Establish a foundation or Independent Grants Committee for international schools

As mentioned above, the Government's prevailing policy is to exercise minimum intervention in the operation of international schools. Notwithstanding this, international schools should, in formulating their school policies, observe the principle of equal opportunities and avoid any form of discrimination apart from compliance with the three anti-discrimination ordinances (namely the Sex Discrimination Ordinance, Disability Discrimination Ordinance and Family Status Discrimination Ordinance). The Government does not see the need to establish an independent authority to oversee relevant educational matters in international schools. Above all, the overall policy and provision of education for all students in Hong Kong, including NCS students with SEN, are overseen by EDB. Nevertheless, the Government welcomes voluntary organizations and different sectors in the community to collaborate with each other for the betterment of the younger generation.

Education Continuum

To ensure that people with disabilities (PWDs) have an equal chance to participate in productive and gainful employment in the open market or in a sheltered

environment, thereby to further their integration into the community, the Social Welfare Department (SWD) and Non-Governmental Organizations have been providing a range of vocational rehabilitation services for the PWDs. They include sheltered workshop and integrated vocational rehabilitation services, integrated vocational training centres, supported employment service and on-the-job training programme for people with disabilities, sunnyway on-the-job training programme for young people with disabilities and 'Enhancing Employment of People with Disabilities through Small Enterprise'. PWDs who have reached the age of 15 or above, including NCS PWDs, can apply for the services that best meets their rehabilitation needs.

The overall direction of rehabilitation services is to encourage PWDs to live in the community with their families and friends, but for those who cannot live independently or be adequately cared for by their families, SWD has been providing a range of residential services with different levels of support and care with a view to improving their quality of life and helping them develop independent living skills. These residential services include hostels for moderately mentally handicapped/ severely mentally handicapped/ severely physically handicapped persons, care and attention home for severely disabled persons and supported hostel. Same as other types of rehabilitation services, there is no language criteria set for admission to residential care services.

Thank you very much for your views and comments on the provision for NCS children with SEN. We hope the foregoing information will help clarify the Government's position and you will continue to cooperate with us in supporting those in need.

Yours sincerely,



(Miss Hera CHUM)

for Secretary for Education

cc Secretary for Labour and Welfare



中華人民共和國香港特別行政區政府總部教育局

Education Bureau

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16 June 2008

Mrs Lew, Hui Shan Ida
12A Hing Hon building
26-36 King's Road
North Point
Hong Kong

Dear Mrs Lew,

Thank you for your letter dated 30 April 2008 to the Chief Executive. I would like to explain our prevailing policy and provide further information with regard to your views and suggestions as follows:

In Hong Kong, eligible children irrespective of ethnic origin and physical or intellectual ability have the same right to enjoy basic education. It is Government's prevailing policy to accommodate the needs of non-Chinese speaking (NCS) students with special educational needs (SEN) in the public school sector through various measures, with a view to helping them develop their potentials and integrate into the local education system. As Chinese and English are the two official languages of Hong Kong, all public sector schools are required to teach English and Chinese as a subject. As for the medium of instruction (MOI), although most schools use Chinese as the main MOI, there are quite a number of public sector schools that adopt English as the teaching medium. We have pledged to help all eligible students, including NCS students with SEN, find a place in a public sector school using either Chinese or English as the main MOI, and we will ensure that they will be provided with support measures to cater for their needs.

The English Schools Foundation (ESF) schools and international schools provide alternatives for NCS students who have their own language and/or curriculum preference. These schools provide choices in an open market, with minimum

intervention from the Government. Nevertheless, to better enable the ESF to address the demand of students with SEN, we have exceptionally provided ESF with additional resources starting from the 2006/07 school year, which have enabled ESF to operate three additional learning support classes with 21 places for students with SEN. We are exploring with the ESF the possibility of further enhancing the provision of school places and support for NCS students with SEN in the ESF system.

For international schools, although they are operated on a self-financing basis in the commercial market, they, like the ESF schools, should provide equal opportunities for all students in terms of student admission, teaching curriculum and assessment, etc.

As mentioned above, the Government's prevailing policy is to exercise minimum intervention in the operation of international schools. Notwithstanding this, international schools should, in formulating their school policies, observe the principle of equal opportunities and avoid any form of discrimination apart from compliance with the three anti-discrimination ordinances (namely the Sex Discrimination Ordinance, Disability Discrimination Ordinance and Family Status Discrimination Ordinance). The Government does not see the need to establish an independent authority to oversee relevant educational matters for NCS students with SEN. Above all, the overall policy and provision of education for all students in Hong Kong, including NCS students with SEN, are overseen by the Education Bureau. Nevertheless, the Government welcomes voluntary organizations and different sectors in the community to collaborate with each other for the betterment of the younger generation.

We have pledged to provide a school place in the public school sector for every school-age child at primary and secondary levels. We also have aided special schools to cater for those students with severe or multiple disabilities/special educational needs (SEN) who cannot benefit from the ordinary school setting. These are measures to cater for the different needs of students.

Similarly, other than ordinary kindergartens, the Special Child Care Centre (SCCC) operating under the Social Welfare Department provides services for children aged between two and six with moderate and severe disabilities, and aims to develop these children's fundamental developmental skills and intellectual ability, as well as the perceptual-motor, cognitive, communication, social and self-care skills to facilitate their smooth transition from pre-school education to primary education. Residential facilities are also available in some SCCC's to cater for the needs of children with disabilities with families / parents who are unable to provide care to them.

It is common practice for developed countries to provide support and remedial services for newly arrived non-local students, including those with SEN, to help them adapt to the local education system. Likewise, we encourage NCS children with SEN to study in public sector schools and learn the two official languages of Chinese and English, with a view to facilitating their integration into the Hong Kong community. Studying under the local education system does not mean that the NCS students are forced to learn in Chinese at all cost. As mentioned above, there are quite a number of English-medium schools which NCS children may seek admission, if the NCS students concerned could indeed learn better in English. For instance, we have 18 designated schools for NCS children, which have enrolled students with SEN, and 11 of these schools are either English-medium schools or are offering English-medium classes. There are other English-medium schools which are not designated schools but which, like the 18 designated schools, are provided with additional resources for supporting SEN students such as the New Funding Mode or Integrated Remedial Teaching Programme.

Thank you very much for your views and comments on the provision for NCS children with SEN. We hope the foregoing information will help clarify the Government's position.

Yours sincerely,



(Miss Hera CHUM)
for Secretary for Education

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Executive Summary

1. Introduction and Background

In her paper entitled Multiple Identities: Disability, Cultural Diversity and Income Deprivation, Anuradha Naidu from the University of Hong Kong asked:

How can children's multiple identities, including disability, be addressed and celebrated to ensure inclusion in mainstream classrooms?

The International Special Education Needs (SEN) community in Hong Kong deal with this question daily. Similarly, academics, governments, and the Special Education Needs communities throughout the world, continue to try to identify and redress barriers to inclusive education.

Presently leading world nations consider Special Education Needs as part of a single mainstream education framework, as described by the model outlined by the UNESCO Salamanca Statement (1994).

The Salamanca Statement proclaims that:

- Every child has a fundamental right to education, and must be given the opportunity to achieve and maintain an acceptable level of learning.
- Every child has unique characteristics, interests, abilities and learning needs.
- Education systems should be designed and educational programmes implemented to take into account the wide diversity of these characteristics and needs.
- Those with special educational needs must have access to regular schools which should accommodate them within a child centred pedagogy capable of meeting these needs.
- Regular schools with this inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all; moreover, they provide an effective education to the majority of children and improve the efficiency and ultimately the cost-effectiveness of the entire education system.

Despite that Hong Kong, as a Special Administration Region of China, is a signatory to the Salamanca Statement, Ms Naidu argues that in Hong Kong, Asia's World City, children with a disability who belong to ethnic minority groups are, "at risk" of being excluded from the mainstream education system, due to institutional barriers, linguistic disadvantage and/or financial disempowerment.

Ms Naidu argues that:

- Institutional barriers in Hong Kong can give rise to schools' reluctance to admit children who are unable to conform to the minimum benchmark requirements (not necessarily academic) for admission;

- Children from some linguistic minority groups struggle to be understood with their inadequate knowledge of either the official language of the State (in this case Chinese) or English; and,
- Children with a disability whose problem is compounded by parent disempowerment and poverty are more likely to remain struggling learners.

It is for these, and several other reasons, that the Special Education Needs community in Hong Kong aspires for all SEN of non-Chinese speaking children to be capable of being met in accordance with global best practices as defined in the Salamanca Statement. With too few SEN places available within Hong Kong's International (non-Chinese speaking) School community, achieving this goal is not currently possible.

In the following document the International SEN community of Hong Kong is pleased to be able to provide recommendations to the Legislative Council and Government of Hong Kong, in order that the objectives of the Salamanca Statement might be better achieved for the non-Chinese speaking SEN community of Hong Kong.

2. The Issues

a. The Right to Education

The right to education for all children is deeply enshrined in our laws. The Hong Kong Government has, for quite some time, held education and training in high regard and has spent considerable time and resources in reviewing our education system and making available (particularly to able-bodied residents) subvented programmes encouraging the use of English in Hong Kong. In addition to legislative recognition of these rights the Hong Kong Government has taken on-going steps to ensure that the basic education needs of the society are met. In the mainstream education sector, the Government has addressed the needs of Chinese speaking and non-Chinese speaking children. In the special needs education sector, the various needs of Chinese speaking, disabled children are provided for through 62 aided special schools and 641 special education classes in the mainstream schools.

b. The Forgotten Children

Presently Hong Kong's education playing field seems unfairly balanced when it comes to Government and community support for SEN. This is in contrast to current international thinking that stipulates the following are the responsibility of the entire community irrespective of the child's academic ability:

- Appropriate education for every child;

An appropriate education is defined as meeting a child's unique needs, in order to prepare that child for employment and independent living.

- The least restrictive environment for every child to learn;

In the United States IDEA defines the least restrictive environment as: To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

- Provision of education in a child's mother tongue;

The past decade has provided more evidence that good quality early childhood care and education, both in families and in more structured programmes, has a positive impact on the survival, growth, development and learning potential of children. They should be provided in the child's mother tongue and help to identify and enrich the care and education of children with special needs.

Education Opportunities for children in Hong Kong

Provision		Chinese Speaking Children			Non-Chinese Speaking Children		
		Mainstream (able-bodied)	Special Needs (disabled)		Mainstream (able-bodied)	Special Needs (disabled)	
			Mild	Moderate to Severe		Mild	Moderate or Severe
Primary							
Government		✓	✓	✓	✓	✓	NONE
Aided		✓	✓	✓	✓	✓	NONE
paid services	ESF ⁴	N/A	N/A	N/A	✓	✓	✓
	DSS	✓	N/A	N/A	✓	N/A	N/A
	Private	✓	✓	N/A	✓	✓	✓
Secondary							
Government		✓	✓	✓	✓	NONE	NONE
Aided		✓	✓	✓	✓	NONE	NONE
paid services	ESF ⁵	N/A	N/A	N/A	✓	✓	✓
	DSS	✓	N/A	N/A	✓	N/A	N/A
	Private	✓	✓	N/A	✓	NONE	NONE

Every child is entitled to free education in Hong Kong and this should be a right without any kind of discrimination. However, children who are both members of a minority (therefore non-Chinese speaking) and disabled, are still not given equal opportunities (when compared to other children) to fully develop their individual potential. Existing barriers for non-Chinese speaking students with SEN include:

- No free education;
- Limited provision of paid services, which are fragmented and inefficient. Parents of children with special education needs, need to source and coordinate these services, in most instances, without professional assistance;

- High cost of paid services – a burden that must be borne entirely by parents;
- No education continuum – through secondary and vocational schools – for non-Chinese speaking children with special education needs, so that they may live a purposeful, and to the maximum extent possible, independent life; and,
- No programmes that assist non-Chinese speaking children with special education needs to integrate within mainstream community when they become adults.

c. Limited Places Among International Education Options

Hong Kong's International SEN community supports the Hong Kong Government's stated policy to cater for its non-Chinese speaking community's SEN by integration with mainstream schools. But lack of attention, funding and resources available to non-Chinese speaking children with SEN seems inequitably disproportionate when compared with provisions for other children, regardless of ability.

If the Government is to successfully implement its policy to integrate mainstream and special education needs students, it will need to facilitate implementation by:

- acknowledging the issue of lack of places, resources and facilities for special education needs in the non-Chinese speaking education sector;
- increasing awareness among the international education community that solutions to satisfy non-Chinese speaking, special education needs, need to be found;
- supporting those international schools already developing and implementing integrated special education needs programs; and,
- working with the international education community to increase the number of places, facilities, funding and resources available for SEN in mainstream international schools in Hong Kong.

d. Overcoming Barriers to Increased SEN Mainstream Places

International best practice indicates a ratio of 10 percent special education needs students, to 90 percent mainstream students, to be the most effective integration mix. In order to achieve this ratio, or as close as possible to this ratio, the Special Education Needs Community in Hong Kong aspires for more, ideally all, mainstream international schools to be able to offer places for students with special education needs. In order to facilitate this goal it is important to understand current barriers that exist for integration of children with SEN, into existing schools that provide mainstream education in Hong Kong. Research would indicate the primary barriers in Hong Kong are:

i. Cost

Historically, parents of children with SEN who wanted English, or language services other than Chinese, have had to arrange for themselves by setting up special needs schooling and training. Without much help from the Government, these efforts become costly and inefficient. Additionally, programmes competing for limited resources (such as space and English speaking therapists) further push up the costs of these SEN services, resulting in them becoming unaffordable for members of low income groups.

Currently there are three financial options for non-Chinese speaking students with SEN in Hong

Kong. The first is Government-funded schools working to a Hong Kong curriculum and education model. The language of instruction is English. The second is the English Schools Foundation (ESF) sub-vented model that uses the curriculum of Great Britain, with funding support from the Hong Kong Government. Language of instruction is English. Sixteen of the ESF schools offer some SEN integration, while Sarah Roe is dedicated to those students with extensive special needs that limit their independent ability. The final model is a totally private model where parents pay fees for all the additional professional education support needs as determined by the student's needs. The language of instruction is dependent on the nationality of the school, but most international schools have English language streams. Even with these three options the number of places is limited and continuation of the current programmes without support from the Government is questionable.

ii. Individual School Mandate

The second barrier to integration of SEN in mainstream schools is individual school mandates. Traditionally, the objective of international schools in Hong Kong was to provide expatriate students with a 'home country' education with the view that the students would return to their home country to work or undertake further tertiary studies. The objective of Hong Kong's international schools remains largely unchanged. The biggest difference is that local Chinese-speaking families have seen these international schools as an opportunity for their children to be eligible for overseas universities, resulting in much higher enrolment of local students. The majority of private international schools in Hong Kong continue to cater specifically for students – both Chinese and non-Chinese speaking - who wish to undertake international tertiary studies.

Attracting primarily students who are capable of higher academic achievement, these schools do not seek to offer inclusive programming. This is disappointing given that many of these schools have received land or financial grants of support from both the Hong Kong Government and/or their own Governments with a view that they will cater for all the education needs of their 'national' community. Clearly there are those schools that will always seek the more academically capable, and it is their right to do so. However, under the Basic Law and certain international conventions and treaties, Hong Kong has obligations to all children that must be fulfilled.

3. The Right Support and Tools for Families, Schools, Teachers and Students

While the non-Chinese speaking, SEN community recognise the effort that is being made by those private and charitable organizations offering SEN assistance, it is essential if Hong Kong is to improve services, that the current lack of co-ordination and the fragmentation and inefficiencies of existing services, be addressed.

a. Students and Families

The success of the inclusive school depends considerably on early identification, assessment and stimulation of the very young child with special educational needs. Early childhood care and education programmes for children aged up to 6 years ought to be developed and/or reoriented to promote physical, intellectual and social development and school readiness. These programmes have a major economic value for the individual, the family and society in preventing the aggravation of disabling conditions. Programmes at this level should recognize the principle of inclusion and be developed in a comprehensive way by combining pre-school activities and early childhood health care.

Early identification of SEN needs requires close integration of family, school and medical facilities. The family must be able to, in conjunction with professional help, identify the need and have access to the support necessary for their family and child in order to manage the special needs. Teachers require on-going education to provide excellent integrated teaching and schools require support in order to cover the cost of on-going teacher training, learning professionals and resources and materials associated with SEN learning.

To achieve this integration, the international SEN community in Hong Kong proposes the establishment of an authority that would centralize the following functions:

- Assessment and identification of student needs
- Coordination with Government financial agencies
- Therapeutic intervention
- Family counselling
- Community integration of SEN

b. Schools and Teachers

To support the ongoing development of mainstream classroom teachers, special education teachers, and SEN management, the International SEN community in Hong Kong proposes the establishment of a coordinated program with an education institution that will develop and offer courses. These courses could be developed in conjunction with participating schools.

4. The Education Continuum

An education continuum must be developed that enables children with SEN to live independently and productively within the Hong Kong community. The continuum would include the following:

- Scope of need and nature for an educational continuum through secondary and into vocational education
- Identification of where and how educational needs could be met by the international community in Hong Kong
- Identification of the scope for community integration by way of supported living and suitable employment opportunities for children with SEN who would otherwise not achieve this independently

5. Recommendations

a. Parity with Chinese SEN Students

To overcome the cost barrier, the international SEN community recommends that the Hong Kong Government agree to make financial support available in a manner similar to that provided under the New Funding Mode (NFM); and the SCCC.

i. New Funding Mode

Schools that are part of the NFM are offered an intensive learning support grant according to the students in need. These schools are provided with greater autonomy and flexibility in resource deployment and are required to adopt the following strategies:

- Early identification
- Early intervention
- Whole school approach
- Home school cooperation
- Cross-sector collaboration

NFM participating schools are required to set up a Student Support Team and coordinate the teaching staff and parents to provide the students with systematic and appropriate school-based support.

Similarly, funding for non-Chinese speaking students with SEN would be associated with the child (not a specific educational institution, thereby providing funding for those schools prepared to provide support services for SEN students within mainstream classrooms) and made available to the school providing the service. The amount of funding available for each student would be determined by the nature of the special need. This special need would be assessed by a Foundation responsible for, amongst other things, centralised assessment of special education needs. (See below).

ii. SCCC Funding

b. A Foundation for Non-Chinese Speaking SEN

i. Student and Family Support

To coordinate early identification of non-Chinese speaking children's SEN, a Foundation should be established and endowed with the authority to:

- Arrange SEN assessments and identification of student needs
- Coordination with Government financial agencies, making funding recommendations, and support the SEN child's family through the process of application for financial support
- Coordination of therapeutic intervention by a full range of physical, psychological and educational professionals
- Offer/Facilitate counselling for Family and care-givers of SEN children
- Devise and implement community integration and education SEN programs

The Foundation would also be responsible to liaise with all the international schools providing SEN programs, with a view to providing guidance regarding placement opportunities for SEN students.

ii. School and Teacher Support

The Foundation's mandate should also include the coordination of on-going improvement of services and standards amongst the international SEN education community. It is envisaged that this might involved partnerships with Hong Kong academic institutions and overseas academic institutions with a view to providing training for things such as:

- Integrated teaching skills for mainstream teachers
- Professional development for existing SEN teachers
- Professional development for teaching support staff and SEN coordinators
- SEN management skills for school administrators

The Foundation's international school liaison role might also extend to include working with the international school community with a view to developing proposals that would lead to increasing the number of places that could be provided within mainstream classrooms; the range of services that could be provided by, or shared by, the international education community; and, additional methods of finance for these places and services.

c. Education Continuum

Clearly, the current priority is the immediate need of Hong Kong's SEN community. Firstly, to implement funding and coordination services that will improve the existing services being provided by international education institutions. This should lead to the creation of working models that will then facilitate the expansion of these models to other institutions willing to implement SEN programs within mainstream classrooms.

Once this initial need is fulfilled, it will be imperative to look beyond early childhood identification and intervention. Hong Kong's Social Welfare and Education policy makers will need to review the type of society to which Hong Kong aspires and develop and implement strategies that achieve education through middle and possibly high school age groups, ultimately deciding what type of inclusive options, Hong Kong will be able to provide the SEN members of our community, for independent living and meaningful contribution to our society.

For Information on 3 April 2008

**Sub-Committee to Study Issues Relating to the Provision of
Boarding Places, Senior Secondary Education and Employment
Opportunities for Children with Special Educational Needs**

**Education for Non-Chinese Speaking
Children with Special Educational Needs**

Purpose

This paper is to inform Members of the education services for non-Chinese speaking (NCS) children, including ethnic minorities, with special educational needs (SEN).

Education for NCS Students

2. Our established policy is to facilitate early integration of NCS students into the local education system. In Hong Kong, eligible children irrespective of ethnic origin and physical or intellectual ability have the right to enjoy basic education in public sector schools. NCS children including those with SEN are encouraged to study in public sector schools so that they can integrate into the local community as early as possible.

3. We provide not only support services that help NCS students adapt to the local education system but also other support and resources pertaining to students with SEN. NCS students with SEN are supported through both kinds of support services. We have published a bilingual (English and Chinese) parent information package entitled “Non-Chinese Speaking Parent Information Package: Your Guide to Education in Hong Kong” to introduce the local school system, major education policies and related education services, among which there is a chapter on education services for children with SEN. The Package is being translated into major ethnic minority languages and will be available by mid 2008.

Education for NCS Students with SEN

Identification and Assessment

4. The diagnosis of visual impairment, physical disability, Autism Spectrum Disorders and Attention Deficit / Hyperactivity Disorder is more clinical in nature. In assessing whether NCS students are with intellectual disability, specific learning difficulties, speech and language impairment, or hearing impairment, their different cultural and experiential background as well as their language ability will be taken into account and adjustments will be made as necessary.

5. For assessment of intellectual disability, non-verbal tests of intelligence are often used for NCS students who are not proficient in Chinese. When specialists interpret the test findings, NCS students' social adaptive behaviour and cultural and experiential exposure will also be considered. For assessment of specific learning difficulties, it is important to rule out that the learning difficulties of the NCS students is caused by a lack of appropriate learning opportunities. In this regard, teachers will identify those at risk by using a behaviour checklist and make referrals for professional assessment. When the test findings are interpreted, NCS students' learning history and other qualitative information will be considered. For assessment of speech and language impairment and hearing impairment, the assessments will be conducted in Chinese or English depending on the students' proficiency in either language, or in the students' mother tongue through the help of the students' parents or relatives.

Student Admission to Schools

6. NCS children are encouraged to attend local kindergartens using Chinese as the medium of instruction to facilitate their early immersion in the Chinese environment. Pre-schoolers with disabilities may attend special child care centres or join an Integrated Programme in Kindergarten-cum-Child Care Centre under the Social Welfare Department, depending on their degree of disability.

7. NCS children are admitted to public sector schools through Primary One Admission (POA) or Secondary School Places Allocation systems. They may also seek placement assistance from the Education

Bureau. In POA, NCS children are provided an opportunity for cross-net allocation to schools that traditionally admit a significant portion of NCS children. Moreover, if parents indicate that their child has SEN in the application form for POA, we shall collect the relevant diagnosis/assessment report(s) and related information on the child to identify his educational needs, and discuss with the parents the appropriate educational provision for him/her. Students with SEN are encouraged to receive education in ordinary schools. Those who cannot benefit from ordinary school setting will be placed in special schools. In short, a child will be allocated to Primary One in a public sector school or placed in a special school subject to professional assessments and recommendations as well as parents' written consent.

Support for NCS Students with SEN

8. The following support measures help NCS students and those with SEN adapt to the local education system:

- A full-time 6-month Initiation Programme and a 60-hour Induction Programme for newly arrived NCS children;
- A School-based Support Scheme Grant for public sector schools to run school-based support programmes (e.g. supplementary language classes) for newly arrived NCS students;
- A 4-week Summer Bridging Programme at Primary One to Primary Four that familiarizes NCS students with education in Chinese and helps them consolidate their learning at Key Learning Stage I;
- School-based professional support in the learning and teaching of the Chinese Language and a cash grant provided for “designated schools”;
- A Chinese Language Learning Support Centre commissioned to the University of Hong Kong that supports NCS students, mostly in secondary schools, who have a late start in their learning of the Chinese Language;
- Training programmes commissioned to the Hong Kong Polytechnic University for Chinese Language teachers in primary schools with NCS students for the three years beginning in the 2006/07 school year;

- Learning and teaching resources developed by the Education Bureau in collaboration with the “designated schools” for teachers, and other resources by the Support Centre or generated through the training programmes; and
- A “Supplementary Guide to the Chinese Language Curriculum for NCS Students” that will be finalised in mid 2008 upon the consolidation of feedback from consultation.

9. With the implementation of integrated education, ordinary schools are encouraged to adopt a whole-school approach to cater for students with SEN. A three-tier intervention model is in place and schools are provided with different levels of resources and support according to the degree of severity and genuine needs of students with SEN including both local and NCS students. Schools are advised to deploy the resources flexibly to meet the specific needs of individual students.

10. At present, schools provide a variety of support for students with SEN, including those NCS students with SEN. The support embraces small group teaching, co-teaching, Intensive Remedial Teaching Programme, individualised educational programme, learning support by teaching assistant, speech therapy services, language learning support programmes for Chinese and English, after-school homework tutorial classes, peer tutoring, individual and group guidance, and accommodations in assignments, assessments and examinations. For schools with a larger cluster of NCS students, some adapt the Chinese curriculum for NCS students or provide alternative language subjects. Some schools also employ teaching assistants who can speak the native languages of the NCS students with SEN to provide in-class support for them. The Special Education Support Officers of Education Bureau conduct visits to ordinary primary schools and collaborate with teachers on the use of appropriate teaching strategies for students with SEN including those NCS ones.

11. Starting from the 2007/08 school year, we have introduced structured courses under the teacher professional development framework on special educational needs for five years, which are open to teachers in public sector schools including those which have admitted NCS students with SEN. We also organize tailor-made workshops on various types of SEN which are delivered by overseas professionals. We will continue to work closely with

schools to enhance teachers' capacity in supporting students with SEN. In the coming school years, we will also organize seminars and workshops for sharing experience and support strategies to cater for NCS students with SEN.

Alternative for NCS students with SEN

12. English Schools Foundation (ESF) Schools and other international schools provide an alternative in the Hong Kong education system for NCS students. There are 15 ESF schools and 38 international schools. They deliver the curricula of different countries and enjoy operational autonomy in setting their admission policy and in administering their admission exercises.

13. For students with SEN, ESF offers options for placement. Students whose SEN require minimal learning and teaching adjustment are normally placed in mainstream classes with support by specialist teachers or education assistants. Students whose SEN require more extensive learning and teaching adjustments may study in learning support classes. Students whose SEN call for the most extensive learning and teaching adjustments may study in a special school of ESF, which provides 60 places. To address its waiting list problem, we had approved the release of \$2 million en bloc provision to ESF to operate three new learning support classes with a total of 21 net places starting from the 2006/07 school year. We shall review the situation as appropriate in due course. Our enrolment survey in the 2007/08 school year also shows that 10 international schools are providing a total of 73 places for SEN on an integrated mode and one international school is providing 16 places for SEN students not suitable for integration.

Advice sought

14. The prevailing policies and measures for supporting NCS students and those with SEN are in general able to accommodate the needs of NCS students with SEN. We will keep in view the measures in the light of the needs of these students.

15. Members are invited to note the contents of this paper.

Education Bureau
March 2008

For discussion on 12 June 2008

Legislative Council Panel on Education

**Progress of Support Measures for
Non-Chinese Speaking Students including Ethnic Minority Students**

Purpose

At the meeting held on 29 February 2008, the Administration was requested to –

- (a) provide periodic updates on the progress with the development of a supplementary guide to the Chinese Language curriculum for non-Chinese speaking (NCS) students and the provision of relevant teaching and learning resources including textbooks;
- (b) track and advise the number of NCS students at different key stages of education including P6, S1, S5, S6/S7 and university; and
- (c) advise the number of Government bureaux and departments accepting the General Certificate of Secondary Education (GCSE) (Chinese) qualification for appointment to civil service posts.

Separately, the Administration has been asked to report on the support for NCS students with special educational needs.

2. This paper follows up the above items. It also updates Members on other educational support measures for NCS students, including ethnic minority students, reported in February 2008 [LC Paper No. CB (2)1180/07-08(05)] where appropriate.

Development of a supplementary guide to the Chinese Language curriculum for NCS students

3. Given the vastly different backgrounds, expectations and needs of the NCS students, we appreciate the need for rendering additional support to schools in the form of the “*Supplementary Guide to the Chinese Language Curriculum for NCS Students*” to supplement principles, strategies and recommendations for implementing our Chinese Language curriculum framework in the learning context of the NCS students. This Supplementary Guide aims to serve the needs of the NCS students, but without confining them to a simpler Chinese Language curriculum with pre-set lower benchmarks.

4. Consultation on the Supplementary Guide took place between January and March 2008, during which we met with and received feedback from various stakeholders, including school heads and teachers, tertiary scholars, school councils, education bodies, non-government organisations (NGOs) and ethnic minority groups.

5. On the whole, there was general support for the Supplementary Guide and its four recommended curriculum approaches or teaching/learning modes (i.e. Immersion in Chinese Lessons; Transition/Bridging; Learning Chinese as a Second Language and Integrated Use of the Above Approaches). Taking into consideration all the suggestions received, we will fine-tune and elaborate the description for the respective modes, covering in more concrete terms the learning contents, typical learning sequences and exemplars on successful practices for the different modes.

6. In developing the Supplementary Guide, we are taking into account research findings as well as local, Mainland and overseas experiences in teaching Chinese to NCS students. We will expand references to these experiences and strengthen the discussion on theories and applications related to second language acquisition in the finalized Guide.

7. We aim to finalise the Supplementary Guide for uploading by the third quarter and distribute the hard copies before the end of 2008. Together with other support measures being put in place, the

Supplementary Guide can be flexibly implemented in schools in the 2008/09 school year. Continual evaluation and review will be conducted during implementation for further refinement through informed practice.

8. The public welcomed the on-going development of curriculum resources in support of the Supplementary Guide. However, there was concern over the lack of specially designed textbooks for NCS students. Given the various language and cultural backgrounds, learning needs and aspirations among the NCS students, we consider it more effective to make use of a variety of resources embracing both print and non-print materials rather than one single set of one-size-fits-all textbooks. Hence we will provide quality teaching materials through adapting Quality Education Fund projects on teaching materials for Chinese Language developed in Hong Kong school settings. We will also continue to collect and enhance other school materials in developing exemplars for reference and adaptation by schools. Our aim is to enable all schools admitting NCS students to teach Chinese Language more readily and effectively in meeting different student aspirations. We aim to have the first set of such resources disseminated in a year's time. In view of the schools' most urgent needs, initially these learning materials will be organised to support mainly the mode of Learning Chinese as a Second Language, starting with easier materials at the entry point of learning. The materials will be expanded progressively to support readily the other three modes. At the same time, we are adapting a series of existing Chinese Language learning and teaching materials to suit the needs of NCS students at various proficiency levels. These existing learning and teaching materials to be adapted are briefly described in **Annex 1**.

9. On the assessment tools and benchmarks for NCS students in learning the Chinese Language, we are also currently launching a collaborative study on Chinese language standards of NCS students with the assistance of tertiary institutions. Upon the completion of the study towards the end of this year, we shall proceed with the development of internal assessment tools that would help provide feedback on Chinese Language learning by NCS students and would in turn facilitate the teaching process.

Number of NCS students

10. The Education Bureau (EDB) has, beginning from the 2006/07 school year, started to collect information on students' ethnicity and spoken language at home from Primary 1 to Secondary 7 through the annual Student Enrolment Survey. The number of NCS students in public sector and Direct Subsidy Scheme schools by grade in the 2006/07 and 2007/08 school years based on the information collected is set out at **Annex 2**. Based on the available figures so far, though there are possible errors in the provision of data especially in the initial years of collection as some schools may take time to get familiar with the new survey items introduced only since the 2006/07 school year, there does not appear to be any apparent trend of net wastages across the levels below Secondary 5. We will continue to monitor the movement of NCS students across the levels, and consider enhancement of our data collection methodology so as to facilitate the tracking of students down to individual level.

11. Net wastage between Secondary 5 and 6 can be expected under the current academic structure for senior secondary education. Of the 225 NCS studying in Secondary 5 in the 2006/07 school year, 212 sat for the Hong Kong Certificate of Education Examination in 2007, with 73 having met the minimum requirements for admission to Secondary 6. Regarding Secondary 7, we have traced that 23 NCS students sat for the Hong Kong Advanced Level Examination (HKALE) 2007. Latest information reveals that six out of them have been admitted to first-year undergraduate programmes of the University Grants Committee (UGC)-funded institutions for the 2007/08 school year.

12. We will continue to keep track of the above statistics and monitor the rate of articulation to further education among the NCS students. We believe that, with the significant step taken by the UGC-funded institutions to consider alternative qualification(s) in Chinese Language for the Joint University Programmes Admissions System applicants under specified circumstances since the current cycle (i.e. for admission in 2008), the aspiration for higher education of those NCS students studying in our local schools and are prepared to learn the Chinese Language can be addressed.

Alternative Chinese Language qualification(s) for appointment to civil service posts

13. Most civil service non-graduate grades set Level 2 in English and Chinese Languages in the Hong Kong Certificate of Education Examination as entry requirements for appointment while some civil service grades set a higher standard at Level 3 in these language subjects, having regard to the job requirements. All government bureaux and departments accept Chinese Language results in International General Certificate of Secondary Education (IGCSE) / GCSE / General Certificate of Education 'Ordinary' Level (GCE 'O' Level) for appointment to civil service posts. Grade C and D results in Chinese Language in IGCSE / GCSE / GCE 'O' Level are accepted as comparable to Level 3 and Level 2 respectively in the Chinese Language results in Hong Kong Certificate of Education Examination for civil service appointment purpose.

Support for NCS students with special educational needs (SEN)

14. The Government has been providing ordinary public-sector schools with additional support and resources to cater for the needs of students with SEN, including NCS students. On top of the existing resources and support provided for schools to implement integrated education, starting from the 2008/09 school year, the Government will introduce a new Learning Support Grant to public-sector secondary schools to further strengthen their SEN support. The funding arrangements for the learning support grant under the New Funding Mode for primary schools will also be enhanced.

15. It is a common practice for developed countries to provide support and remedial services for newly arrived non-local students, including those with SEN, to help them adapt to the local education system. Likewise, we encourage NCS children with SEN to study in public sector schools and learn the two official languages of Chinese and English, with a view to facilitating their integration into the Hong Kong community. It should be noted that studying under the local education system does not mean that the NCS students are forced to learn in Chinese at all cost. Although most schools in Hong Kong adopt Chinese as the medium of instruction, there are also quite a number of English-medium schools which NCS students may seek admission, if the NCS

students concerned (some of whom may not have English as their mother tongue) could indeed learn better in English. For instance, among 18 designated schools for NCS students which have enrolled students with SEN, 11 are either English-medium schools or are offering English-medium classes serving some 70 students with SEN (including 22 NCS students with SEN). There are other English-medium schools which are not designated schools but which, like the 18 designated schools, are provided with additional resources for supporting SEN students such as the New Funding Mode or Integrated Remedial Teaching Programme. These schools provide various kinds of support services for their students including small group teaching, after school tutorial classes, individual and group guidance, Chinese learning support programme, remedial support groups for students with specific learning difficulties, English learning support, etc.

16. In addition to the above, there are other education opportunities outside the public school sector for NCS students with SEN. Fifteen English Schools Foundation (ESF) Schools and 38 international schools are providing alternatives for NCS students who have their own language and /or curriculum preferences. They provide choices in an open market, with minimum intervention from the Government. For international schools, although they are operated on a self-financing basis in the commercial market, they, like the ESF schools, should provide equal opportunities for all students in terms of student admission, teaching curriculum and assessment, etc.

17. ESF, which receives some subvention from the Government, is operating a special school and learning support classes in its primary and secondary schools for NCS students with SEN. To help ESF schools address the demand of students with SEN on their waiting list, we have exceptionally provided ESF with an additional provision of \$2 million starting from the 2006/07 school year, which has enabled ESF to operate three additional learning support classes with a provision of 21 new school places for students with SEN. We are exploring the possibility of further enhancing the provision of school places and support for NCS students with SEN in the ESF system.

Alternative Chinese Language qualification(s) for admission to Secondary Six

18. There have been concerns on whether the GCSE (Chinese) examination results could be released earlier to tie in with the Secondary 6 Admission Procedure. In this regard, we have understood from relevant examination authorities overseas that they have genuine difficulties advancing the release of examination results just for Hong Kong.

19. Notwithstanding the above, we have put in place transitional arrangements for the last three cohorts of Secondary 5 students in the 2007/08, 2008/09 and 2009/10 school years seeking admission to Secondary 6 using these Chinese Language qualifications. Specifically, we have invited public sector schools to accept alternative Chinese Language qualification(s) under the Secondary 6 Admission Procedure and to make conditional offers to those applicants under specified circumstances at each stage of the Procedure pending the release of the relevant examination results, provided that the applicants have, except for the Chinese Language, fulfilled all the admission requirements and have attained equal or higher points compared with their counterparts.

20. Understandably some schools have their school-based admission criteria under the Secondary 6 Admission Procedure while others adopting the Chinese medium in learning and teaching of the content subjects may consider the Chinese proficiency attained under the alternative Chinese Language qualification(s) inadequate for pursuing studies at sixth form. Against this background, it is encouraging that more than 80 public sector schools spreading over all districts have responded positively so far. The list of schools willing to make conditional offers, including four designated schools offering Secondary 6 classes, will be finalized and included in the Careers Guidance Handbook for Secondary 5 Graduates to be issued to every graduate in late July 2008.

Designated Schools

21. We will step up our focus support to schools admitted with the NCS students by increasing the number of designated schools from 19 in the 2007/08 school year to 22 in the 2008/09 school year and eventually

to a total of 25 in the 2009/10 school year. In selecting the additional designated schools, we will take into account the spread of the NCS students in the districts among other considerations such as the schools' experience and competence in handling the learning diversity of NCS students, etc. Upon finalising the details, we will announce before the summer vacation the additional designated schools for the 2008/09 school year together with the revised arrangements for disbursement of the special grant as explained below.

22. Starting from the 2008/09 school year, the special grant for designated schools, currently set at \$300,000 per school per annum, will become a recurrent grant. This will enable schools to have better planning for school-based support measures to help their NCS students overcome learning difficulties, particularly in the learning of the Chinese Language, and to facilitate the students' smooth integration into the community. The grant will also be suitably enhanced for individual designated schools with larger intake of NCS students.

Others

23. The other support measures put in place for the NCS students such as the professional training programmes for Chinese Language teachers in primary schools with NCS students, summer bridging programmes etc. as reported in February 2008 (LC Paper No. CB(2)1180/07-08(05)) will continue. Regarding the Chinese Language Learning Support Centres, as we will increase the number of the designated schools to 25 within two school years from the 2008/09 school year, the number of the Centres to be required will be assessed accordingly.

24. It is the Government's policy to facilitate early integration of NCS students, notably the ethnic minority students, into the local education system and the wider community. We will continue to work closely with the stakeholders to address the needs of the NCS students, and to monitor the effectiveness of the various support measures.

Education Bureau
June 2008

**Brief Descriptions of a Series of Learning & Teaching Materials to be
Adapted by the Education Bureau
for Non-Chinese Speaking Students
(as listed in paragraph 8)**

1. Hong Kong Chinese Lexical Lists for Primary Learning

《香港小學學習字詞表》

An album of multiple lists on Chinese lexicons, including Chinese characters, words and phrases, appended with idiomatic expressions, classical wordings, terms and proper nouns, loan words and proper names commonly found in Hong Kong. Information on recommended graphemes, Cantonese and Putonghua pronunciation will be provided.

2. Courseware on Chinese Characters Writing

《點畫流形：漢字書寫學習軟件》

Courseware with multiple learning paths on Chinese characters writing can be used in class teaching or self-access learning. On-line search engine will be provided with information on recommended graphemes, Cantonese and Putonghua pronunciation and word formation. A worksheet generator will be included in the programme to help teachers in their work on exercise design.

3. Courseware on Simplified Chinese Characters

《通繁達簡：簡化字學習軟件》

Courseware with multiple learning paths on Simplified Chinese characters recognition. Information on recommended graphemes, Cantonese and Putonghua pronunciation will be provided. A

worksheet generator will be included in the programme to help teachers in their work on exercise design.

4. Courseware on Traditional Chinese Characters

《從簡入繁：繁體字學習軟件》

Courseware with multiple learning paths on Traditional Chinese characters recognition. On-line search engine will be provided with information on recommended graphemes, Cantonese and Putonghua pronunciation and word formation. A worksheet generator will be included in the programme to help teachers in their work on exercise design.

5. Language Learning Software on Traditional Chinese Virtues

《致知達德：小學中華傳統美德語文學習軟件》

Learning software on Chinese moral values and virtues listed in the curriculum guide. A collection of traditional Chinese sayings on moral values will be provided with animations on stories on the origin with Cantonese, Putonghua and English sound-tracks. Sample thinking questions will be included to help teachers in learning activities design.

**Number of Non-Chinese Speaking Students in Public Sector and
Direct Subsidy Scheme (DSS) Primary and Secondary Day Schools
by Grade in 2006/07 and 2007/08 School Years**

Grade	School Year	
	2006/07	2007/08
P1	913	1011
P2	911	1065
P3	839	1006
P4	757	954
P5	606	825
P6	477	722
P1-P6	4503	5583
S1	691	804
S2	609	706
S3	547	642
S4	341	556
S5	225	325
S6	120	136
S7	100	103
S1-S7	2633	3272

Notes

- (1) Figures refer to the position as at September of the respective school years.
- (2) Figures have included NCS students studying in all DSS schools, some of which do not offer the local curriculum. Therefore, some NCS students studying at S5 and S7 in the 2006/07 school year did not participate in the Hong Kong Certificate of Education Examination (HKCEE) and Hong Kong Advanced Level Examination (HKALE) respectively in 2007. Similarly, some NCS students studying at S5 and S7 in the 2007/08 school year may not participate in the HKCEE and HKALE respectively in 2008.

**A Reply to EDB's Response to the Legislative
Council Panel on Education Regarding
Progress of Support Measures for Non-Chinese
Speaking Students including Ethnic Minority
Students**

**Hong Kong's Forgotten Child: The
Non-Chinese Speaking Child with Special
Educational Needs**

**By Hong Kong's International Special Education
Needs Community**

June 2008

In their June 2008 response to the Legislative Council Panel on Education regarding the progress of support measures for non-Chinese speaking (NCS) students including ethnic minority students, the Education Bureau (EDB) also reports on the support for NCS students with special education needs (SEN).

EDB states that the Government has been providing ordinary public-sector schools with additional support and resources to cater to the needs of students with SEN, including those who are NCS. Stated future plans include a new Learning Support Grant to public-sector secondary schools to further strengthen their SEN support. There are no details offered about the provisions of this grant or about the programming and continued necessary for it to be successful. Following are some of the pertinent policies that support the SEN programming offered in other developed countries:

- Individual adapting of teaching methods and programming for students from linguistic and cultural minorities
- Entitlement to instruction adapted to the child's prerequisites
- Differentiated teaching methods as an overall principle of schools
- Accommodations in place to meet unique needs of students
- Programming best adapted to meet the child's individual needs
- Accessibility to special arrangements and activities
- Freedom to learn at individual pace

What is the curriculum in place for NCS students with SEN? The EDB must supply details about what specific programming will be supported and what types of students/SEN said programming will address. By their own admission, the EDB is struggling to develop and implement a unified curriculum for typically developing NCS students (LC Paper No. CB(2)2164/07-08(03)). What is the realistic expectation that a unified and appropriate curriculum for NCS students with SEN can be developed?

Additionally, the EDB states that the funding arrangements for the learning support grant under the New Funding Mode (NFM) for primary schools will be enhanced. There is no specific mention of this enhancement benefitting NCS students with SEN. Does the EDB intend to follow the previous recommendation of Hong Kong's International Special Education Needs Community and provide parity under the NFM for NCS students with SEN (CB (2) 1971/07-08(01) currently not attending local schools due to lack of appropriate curriculum?

EDB's response gives particular emphasis to NCS children and the remedial support offered to help them integrate into the local system. Scant attention is given to the

support offered to NCS students with SEN. The report does recognize English as one of the official languages in Hong Kong and also notes that studying under the local system does not mean NCS students are forced to learn in Chinese at all costs. Again, the primary focus here is on NCS students, with SEN as a secondary concern. It is interesting that the report highlights 18 designated schools for NCS students which have students with SEN enrolled. 11 of these schools are either English-medium or are offering English medium classes serving some 70 students with SEN. 22 of these students are also NCS. These numbers are puzzling. International equivalents indicate that up to 7% of school age children have SEN. The 2006 By-Census identifies 28,722 full time ethnic minority (NCS) students in Hong Kong. Even if a lower rate of students with SEN was stipulated, say 5%, there would still be in excess of 1400 NCS students with SEN in Hong Kong. The EDB is now serving 22 of them. One would correctly question where the balance are receiving the services they so desperately need and deserve.

The EDB goes on to report that there are other English-medium schools that, while not designated schools, do receive additional resources for supporting students with SEN. The report lists an assortment of miscellaneous and disconnected programs designed to support NCS students with SEN. There is no mention of a dedicated curriculum for these students or a set of defining principles that would guide the development of any future programming. Without the establishment of guidelines and a well defined curriculum, NCS students with SEN will not receive the level of programming necessary.

The report references opportunities available outside the public system for NCS students with SEN, specifically, 38 private international schools that provide alternatives for NCS students. In this context, there is no mention of the specific services for NCS students with SEN. Additionally, these alternatives are cited as being outside the public sector to provide choices in an open market, with a minimum of interference from the government. Is the implication that international schools are viewed as business concerns, not to be viewed as providers of a fundamental public service – one which is a basic right for all children? EDB states that while it is the policy of the administration not to micro-manage international schools, international schools should provide equal opportunities for all students in terms of admission, teaching curriculum and assessment. If the EDB, by virtue of its policies, does not have any managerial oversight regarding international schools, through what mechanism are they holding these schools accountable for providing equal opportunities?

The final issue the report deals with is ESF and its current and future support for NCS students with SEN. The implication is that ESF should be the sole purveyor of services to NCS students with SEN. Assuming that one institution can adequately solve this problem ignores its scope and magnitude as well as the resources that could be mobilized

to solve it. The paper does mention the possibility of further enhancements within the ESF system for NCS students with SEN. Will these enhancements be substantial enough to address the needs of the current students on the ESF waitlist as well as those who have simply not applied due to the daunting wait list situation? Has the EDB determined that ESF has the facilities and resources, i.e. teachers, in place to absorb all of these students?

The lack of gravity and concern afforded this issue by the EDB and the administration are reflected in the paucity of attention given in the report: 4 paragraphs out of 11 pages. There is nothing more blatant to underscore the fact that NCS students with SEN are truly Hong Kong's forgotten children, relegated to the realm of all those who are the victims of direct discrimination. Scattershot, substandard policies and implementation are sadly the norm for these vulnerable citizens of 'Asia's World City.' To redress this discrimination and provide the appropriate programming for NCS children with SEN, the International Special Education Needs Community calls for the recommendations included in their April 2008 position paper to be implemented with all due haste.

Clearly, the current priority is the immediate need of Hong Kong's SEN community. Firstly, to implement funding and coordination services that will improve the existing services being provided by international education institutions. This should lead to the creation of working models that will then facilitate the expansion of these models to other institutions willing to implement SEN programs within mainstream classrooms.

Hong Kong's Social Welfare and Education policy makers will need to review the type of society to which Hong Kong aspires. The development and implementation of strategies will ultimately determine what type of inclusive options Hong Kong will be able to provide the SEN members of our community.

立法會
Legislative Council

LC Paper No. CB(2)2037/07-08

(These minutes have been seen
by the Administration)

Ref : CB2/HS/2/04

**Subcommittee to Study Issues Relating to the Provision of
Boarding Places, Senior Secondary Education and Employment
Opportunities for Children with Special Educational Needs**

**Minutes of meeting
held on Thursday, 3 April 2008, at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Dr Hon Fernando CHEUNG Chiu-hung (Chairman)
Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Yiu-chung
- Public Officers attending** : Items II and III

Miss WU Po-ling
Principal Assistant Secretary (School Administration
and Support), Education Bureau

Mr Albert WONG Kam-wing
Principal Inspector (Special Education Support 1),
Education Bureau

Mr Stephen SUI
Commissioner for Rehabilitation, Labour and Welfare
Bureau

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Mrs Cecilia YUEN
Assistant Director (Rehabilitation and Medical Social
Services), Social Welfare Department

Mrs Agnes LI CHAN Chui-ngan
Chief Social Work Officer (Rehabilitation and Medical
Social Services)1, Social Welfare Department

**Attendance by
invitation : Item II**

Hong Kong Christian Service Chih Ai Parent's
Association

Mr Eric CHEUNG
Consultant

Miss Hilda LEUNG
Centre-In-Charge

The Parents' Association of Pre-school Handicapped
Children

Ms LAW Kan-wah
Representative

Hong Kong Joint Council for People with Disabilities /
Hong Kong Council of Social Service

Mr Philip YUEN Chi-hoi
Secretary General of Hong Kong Joint Council for
People with Disabilities / Rehabilitation Chief
Officer of Hong Kong Council of Social Service

Network on Services for Pre-school Disabled Children /
Heep Hong Society

Ms Nancy TSANG
Convenor of Network on Services for Pre-school
Disabled Children / Director of Heep Hong Society

Heep Hong Society Parents Association

Mr NGAI Chun-yu
Representative

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Item III

Korean International School

Mrs Lynne Thomson
Teacher

The American Chamber of Commerce in Hong Kong

Dr Richard R Vuylsteke
President

English Schools Foundation

Mrs Heather Du Quesnay
Chief Executive

Mrs Jan Martin
SEN Adviser

Hong Lok Yuen International School

Ms Chris Curtain
Senior Manager - Foundation

Mr Richard Hustwit
Class Teacher Year 4

Watchdog Ltd / Watchdog Early Learning and
Development Centre

Miss Stella WONG
Executive Director

Mrs Abbi DeLessio
Development Director

Kellett School

Ms Ann McDonald
Principal

Ms Anne Paterson
Learning Support Manager

Action

Rainbow Project Co. Ltd.

Mr Alan Mercer
Chairman & Director

The Springboard Project Ltd.

Mr Glen Braden
Chairman

Ms May CHOW
Project Director

The Nesbitt Centre

Mrs Vanessa Elliott
Programme Director/ Speech Therapist

The Child Development Centre

Ms Sabrina HO
Chairman

Mr Hugo Barrett
Past Chairman and Honorary Advisor

Growing Together

Ms Virginia Wilson
Chairman

Mrs Ariane George
Member

Mr Albert LEUNG Man-wai
ESF SEN Parents Coordinator

California School

Mr Pervez Akhter
Principal

Mr Atiq-ur-Rehman Malik
Lecturer

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Hong Kong Academy

Dr Andy Page-Smith
Head of School

Ms Robyn Joseph
Board Chair

Mr John Greene

Mr Edward Bunker

Ms Eva Griffith

Mr John Zimmerman

Ms Alice Miao

Clerk in attendance : Miss Odelia LEUNG
Chief Council Secretary (2)6

Staff in attendance : Mr Stanley MA
Senior Council Secretary (2)6

Miss Carmen HO
Legislative Assistant (2)6

I. Confirmation of minutes
[LC Paper No. CB(2)1394/07-08]

The minutes of the meeting held on 28 January 2008 were confirmed.

II. Impact of the Pre-primary Education Voucher Scheme on Special Child Care Centres
[LC Paper No. CB(2)1465/07-08(01), CB(2)1509/07-08(01) & (02)]

2. The Subcommittee deliberated (proceedings of meeting at **Annex**).

Briefing by the Administration

3. The Administration highlighted that in addition to training programmes currently provided, an annual recurrent allocation of \$5.8 million had been earmarked for enhancing the knowledge and skills of special child care workers (SCCWs) and child care supervisors (CCSs) in order to improve the quality of

Action

pre-school services for children with disabilities. The amount of training subsidy for their attendance of recognized courses would be comparable to the teacher development subsidy under the Pre-primary Education Voucher Scheme (the Scheme). The Social Welfare Department (SWD) would conduct a stocktaking exercise to ascertain the training needs of SCCWs and CCSs. Meanwhile, the current one-year in-service special child care worker certificate course would continue and SWD would continue to encourage the operators of non-governmental organizations (NGOs) to provide two additional salary points for the SCCWs on completion of the training course.

Views of the deputations

4. The deputations were concerned about the impact of the Scheme on Special Child Care Centres (SCCCs). The Scheme provided direct fee subsidy for parents, legal guardians or registered custodians of children aged two years and eight months or above attending nursery, lower or upper classes in eligible non-profit-making kindergartens or Kindergarten-cum-Child Care Centres (collectively referred to as KGs); and in relevant classes of eligible private independent kindergartens under a three-year transitional arrangement between the 2007 and 2010 school years. As the Scheme did not cover rehabilitation services units including SCCC, SCCWs working in these units were not entitled to the teacher development subsidy provided under the Scheme. Since SCCWs were qualified to work in KGs, there was an incentive to switch to the KG sector in order to be eligible for the development subsidy.

5. According to a survey conducted by the Hong Kong Council of Social Services, the turnover rate of SCCWs in the past year was as high as 32%. The deputations were concerned that the high turnover rate of SCCWs had adversely affected the quality of services provided by the rehabilitation services units for children with disabilities. They raised the following views and suggestions -

- (a) All children including children with disabilities should be eligible for subsidy in pre-school education. The Scheme should apply to children attending rehabilitation services units including SCCC, integrated programmes in KG-cum-Child Care Centres and early education and training centres from the 2007-2008 school year onwards.
- (b) The level of teacher development subsidy for SCCWs should be the same as that for KG teachers under the Scheme.
- (c) SCCC should be allowed to use the development subsidy to employ temporary SCCWs to relieve serving SCCWs to attend training courses.

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- (d) Development grants should be provided for rehabilitation services units to procure computer hardware, software and consumables and necessary multi-media equipment and accessories to support children with disabilities in learning.
- (e) SWD should review the arrangements for offering the one year part-time certificate course to SCCWs working with children with disabilities to reduce the waiting time for enrolment to the course. Apart from offering this course, SWD should consider recognizing other related courses provided by tertiary institutions to enhance the training opportunities for SCCWs.
- (f) SWD should explain how the new annual recurrent funding of \$5.8 million for strengthening professional development of SCCWs and CCSs from 2008-2009 onwards would be allocated.

Members' views and suggestions

6. Members considered that the unacceptable high turnover rate of SCCWs in the past year would certainly jeopardize the quality of rehabilitation services for children with disabilities. According to the deputations, unlike the development subsidy under the Scheme which amounted to \$3,000 per voucher, the development subsidy per enrolment of children with disabilities was around \$1,000 only if \$5.8 million per year was set aside for training of SCCWs. Members requested the Administration to -

- (a) examine the causes for the high turnover rate of SCCWs and to identify solutions to the problem;
- (b) provide the same level of development subsidy for SCCWs as for KGs under the Scheme;
- (c) communicate regularly with the stakeholders in the rehabilitation services sector, for example by holding quarterly meetings;
- (d) provide information on the remuneration packages for SCCWs in rehabilitation services units and KG teachers; and
- (e) provide information on how the \$5.8 million recurrent funding per year would be allocated for enhancing the training opportunities for SCCWs and CCSs.

Follow-up

7. Members requested the Administration to provide a written response to their requests. As the Subcommittee was winding up its work, members agreed that the subject should be referred to the Panel on Welfare Services for follow-up.

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III. Education for non-Chinese speaking and ethnic minority children with special educational needs

[LC Paper No. CB(2)1465/07-08(02)]

Views of the deputations

8. The deputations expressed disappointment that while there were 62 aided special schools and 641 special education classes in the mainstream schools accommodating Chinese-speaking students with special educational needs (SEN), only The Jockey Club Sarah Roe School with 60 places and the learning support classes operated by the English Schools Foundation (ESF) accommodated non-Chinese speaking (NCS) students with SEN, including Chinese children with SEN whose first language was English. Currently, 103 NCS children with SEN were put on the waiting list for the limited places in ESF's learning support classes and The Jockey Club Sarah Roe School. The average waiting time for enrolment was 24 to 36 months. Altogether, the subvented school places available to NCS children with SEN were less than 200. As independent international schools were reluctant to admit NCS children with SEN on resources consideration, many NCS children with SEN were given no choice but to enrol in public sector mainstream schools adopting Chinese as the medium of instruction. These children were struggling hard to learn in a language that was not conducive to the realization of their full potential.

9. The deputations raised the following views and suggestions -

- (a) As a matter of basic human rights, Hong Kong Government should provide sufficient and equal opportunities in education for NCS children with SEN as it provided for their local counterparts. Under the international human right treaties applicable to Hong Kong, the Government had an obligation to provide equal opportunities in education for NCS children as their Chinese-speaking counterparts. The policy to encourage NCS students with SEN to learn in public sector schools adopting Chinese as the medium of instruction in order to facilitate their integration with the local community was impractical as both the children with SEN and their parents were not proficient in Chinese Language.
- (b) The current level of resources allocated for the provision of education for NCS children with SEN was inadequate. The Administration should allocate additional resources for ESF as well as international schools to operate more learning support classes and/or to enrol more NCS children with SEN.

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- (c) The provision of sufficient and equal education opportunities for NCS students with SEN would help promote the image of Hong Kong as an international city and attract talents to work in Hong Kong. Some expatriates had left Hong Kong solely because of the lack of appropriate education services for their children with SEN.
- (d) Resources and supply teachers should be provided to support teachers in ESF schools and international schools to attend professional development programmes on teaching children with SEN.
- (e) Funding support should be made available to schools enrolling NCS children with SEN as in the case of public sector ordinary primary schools admitting Chinese speaking children with SEN.
- (f) An independent authority should be established to coordinate the provision of services for NCS children with SEN.

Members' views and suggestions

10. Members shared the deputations' concern about the inadequate provision of education opportunities for NCS children with SEN to learn in English or their mother-tongue. Members requested the Administration to -

- (a) review critically and expeditiously the policy on the provision of education for NCS children with SEN;
- (b) increase funding to ESF to enable its provision of more learning support classes in its mainstream schools and more places in The Jockey Club Sarah Roe School to accommodate the educational needs of the NCS students with SEN on the waiting list for a school place; and
- (c) provide appropriate support for international schools to share the responsibility of providing education for NCS children with SEN.

Follow-up

11. Members shared the view with the deputations that the provision of equal opportunities in education for NCS children with SEN would promote the image of Hong Kong as an international city and help attract and retain talents. Members agreed that the Subcommittee should write to seek the support of the Financial Secretary for the allocation of additional resources to ESF and international schools in providing education for NCS children with SEN.

Action

12. Members also considered it important that Hong Kong should comply with the requirements under the international human right treaties applicable to Hong Kong. They were concerned whether the current provision of unequal opportunities in education for NCS children with SEN was in breach of the international human right treaties and the provisions of the Disability Discrimination Ordinance. Members agreed that the Subcommittee should seek the views of the Equal Opportunities Commission on the matter.

[*Post-meeting note* : On behalf of the Subcommittee, the Chairman wrote to the Financial Secretary and the Chairperson of the Equal Opportunities Commission on the matter. A copy of the Chairman's letters dated 9 April 2008 were issued to members vide LC Paper No. CB(2)1599/07-08. The responses from the Administrative Assistant to Financial Secretary and the Equal Opportunities Commission were issued to members vide LC Paper Nos. CB(2)1792/07-08(01) and (02) respectively.]

IV. Any other business

13. There being no other business, the meeting ended at 1:10 pm.

Council Business Division 2
Legislative Council Secretariat
26 May 2008

**Proceedings of the meeting of
Subcommittee to Study Issues Relating to the Provision of
Boarding Places, Senior Secondary Education and Employment
Opportunities for Children with Special Educational Needs
on Thursday, 3 April 2008, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000608	Chairman	Confirmation of minutes and Chairman's elaboration of the impact of the Pre-primary Education Voucher Scheme (the Scheme) on the training opportunities for Special Child Care Workers (SCCWs) and Child Care Supervisors (CCSs).	
000609 - 001009	Chairman Admin	Briefing by C for R and AD(RMSS) on the Admin's paper	
001010 - 001304	Hong Kong Christian Service Chih Ai Parent's Association	Presentation of views	
001305 - 001537	The Parents' Association of Pre-school Handicapped Children	Presentation of views [LC Paper No. CB(2)1509/07-08(03)]	
001538 - 001906	Hong Kong Joint Council for People with Disabilities / Hong Kong Council of Social Service	Presentation of views [LC Paper No. CB(2)1509/07-08(04)]	
001907 - 002222	Network on Services for Pre-school Disabled Children / Heep Hong Society	Presentation of views [LC Paper No. CB(2)1509/07-08(04)]	
002223 - 002555	Heep Hong Society Parents Association	Presentation of views [LC Paper No. CB(2)1509/07-08(05)]	
002556 - 003446	Chairman Admin	Chairman's queries about the lesser development subsidy for SCCWs and CCSs (about \$1000 per enrolment of children with disabilities), as compared with that for kindergarten (KG) teachers under the Scheme. His view on the need for a development grant for SCCCs to procure the necessary equipment to support children with disabilities in learning. AD(RMSS)'s response that - - The \$5.8 million annual allocation was intended for enhancing the knowledge and	

Time marker	Speaker	Subject	Action required
		<p>skills of SCCWs and CCSs in delivery of rehabilitation services. It was recurrent in nature and provided in addition to the current certificate course available to SCCWs ;</p> <ul style="list-style-type: none"> - The Administration noted the high turnover rate of SCCWs. Staff wastage was attributed to a number of factors including economic conditions and manpower supply and demand situation ; - Views of deputations on the inadequate supply of specialists including speech therapists and occupational psychologists would be relayed to the University Grants Committee for consideration; - SCCWs would receive an additional point after enrolment to the SCCW Course and another additional point after completion of the course; - Professional development for SCCWs and CCSs was essential to enhance the quality of service in SCCC; - One-off grant had been granted to SCCC for the purchase of computer in January 2008. Non-governmental organizations (NGO) operators of SCCC could also make use of the Lump Sum Grant to purchase computer hardware, software and consumables to support children with disabilities in learning; - To gauge the training needs of SCCWs/CCSs, the Social Welfare Department (SWD) would conduct a stocktaking exercise before deciding on the allocation of the \$5.8 million and continue to provide the SCCW Course as appropriate; - Provision of supply teachers to relieve serving SCCWs to attend training programmes would be considered. 	
003447 - 004132	Mr CHEUNG Man-kwong Admin Chairman	Mr CHEUNG's concern about the unacceptable high turnover rate of SCCWs and its adverse impact on the quality of services in SCCC, and the smaller amount of development subsidy for SCCWs. His view that to be on par with the development subsidy for KG teachers under the Scheme, the Admin should allocate a recurrent funding of \$17 million per year for the training of SCCWs.	

Time marker	Speaker	Subject	Action required
		<p>AD(RMSS)'s explanation that the \$5.8 million allocation per year was intended for enhancing the knowledge and skills of SCCWs and CCSs through attending recognized courses and training programmes co-ordinated by SWD. SWD would conduct a stocktaking exercise to ascertain the training needs of SCCWs and CCSs. The recurrent allocation was proposed having regard to the level of subsidy for the development programmes for kindergarten teachers under the Scheme.</p>	
004133 - 004630	Mr LEE Cheuk-yan Admin Chairman	<p>Mr LEE's concern about the heavy workload and the high turnover rate of SCCWs and his view that the Admin should collaborate with SCCCs to improve the remuneration package and development subsidy for SCCWs, having regard to those offered to pre-primary teachers.</p> <p>AD(RMSS)'s response that SWD would follow up with the survey conducted by HKCSS and the training needs of SCCWs; and her explanation on the entry requirements and arrangements for the provision of professional development for SCCWs.</p>	
004631 - 005450	Ms Audrey EU Network on Services for Pre-school Disabled Children / Heep Hong Society Chairman Admin	<p>Ms EU's suggestion that SWD should meet with SCCWs on a regular basis, say on a quarterly basis; and her enquiries about the main causes of the high turnover rate and the basis for calculating the recurrent funding of \$5.8 million per year for professional development of SCCWs.</p> <p>Ms TSANG's response that the Network met with SWD once a year, and had written to SWD on the high turnover rate of SCCW in February 2008 but received no response so far. Her view that many SCCWs had left the service for the better working environment and development prospect in the KG sector.</p> <p>AD(RSMM)'s response that SWD was ready to and would meet with the stakeholders in the SCCC sector the following week; and that the \$5.8 million was intended for providing training subsidy for SCCWs and CCSs to attend both recognized courses and training programmes coordinated by SWD.</p>	

Time marker	Speaker	Subject	Action required
005451 - 010239	Chairman Admin Mr LEE Cheuk-yan Mr CHEUNG Man-kwong Ms Audrey EU Network on Services for Pre-school Disabled Children / Heep Hong Society	<p>Chairman's request for information on the average salaries for kindergarten teachers and SCCC workers.</p> <p>AD(RSMM)'s response that under Lump Sum Grant, NGOs were given the flexibility to exercise management on salary pay to their staff. Having said that, NGO operators of SCCCs were encouraged to give two additional points to SCCWs who had completed the SCCW course; and her agreement to provide the requested information on remuneration packages for SCCWs.</p> <p>Mr LEE's view that the Scheme should cover SCCCs and a higher voucher value should be provided for children with disabilities in SCCCs, and his request for information on the current amount of subsidy for children with disabilities attending SCCCs.</p> <p>Mr CHEUNG's view that SWD should resolve the problem of high turnover rate of SCCWs. Chairman's comment that SCCWs would leave the service if they were not entitled to the development subsidy under the Scheme.</p> <p>Ms EU's request that SWD should meet the stakeholders at regular intervals of two to three months.</p> <p>AD(RMSS)'s response that SWD held annual briefing session with the stakeholders on the provision of rehabilitation programmes, and her agreement to follow up members' requests as necessary.</p>	See paras 6 & 7 of the minutes
010240 - 010759	Chairman	Chairman's suggestion to refer the matter to the Panel on Welfare Services for follow-up, and his view that the equity principle should apply in the provision of subsidy to children attending KGs and child care centres including SCCCs.	See para 7 of the minutes
010800 - 011441	Chairman	Chairman's introduction of the current situation in the provision of education for NCS children with special educational needs (SEN).	
011442 - 011609	The American Chamber of Commerce in Hong Kong	Presentation of views	
011610 - 011956	Mr John Zimmerman	Presentation of views [LC Paper No. CB(2)1588/07-08(01)]	

Time marker	Speaker	Subject	Action required
011957 - 012243	California School	Presentation of views	
012244 - 012603	Hong Lok Yuen International School	Presentation of views [LC Paper No. CB(2)1465/07-08(04)]	
012604 - 012913	Mr Albert LEUNG Man-wai	Presentation of views [LC Paper No. CB(2)1471/07-08(01)]	
012914 - 013249	English Schools Foundation (ESF)	Presentation of views [LC Paper No. CB(2)1465/07-08(03)]	
013250 - 013630	Ms Eva Griffith	Presentation of views [LC Paper No. CB(2)1509/07-08(13)]	
013631 - 013917	Watchdog Ltd / Watchdog Early Learning and Development Centre	Presentation of views [LC Paper Nos. CB(2)1492/07-08(01) and CB(2)1509/07-08(07)]	
013918 - 014258	The Child Development Centre	Presentation of views [LC Paper No. CB(2)1492/07-08(01) and CB(2)1509/07-08(10)]	
014259 - 014600	The Springboard Project Ltd.	Presentation of views [LC Paper Nos. CB(2)1492/07-08(01) and CB(2)1509/07-08(08)]	
014601 - 014744	Mr Edward Bunker	Presentation of views [LC Paper No. CB(2)1509/07-08(12)]	
014745 - 015019	Growing Together	Presentation of views [LC Paper Nos. CB(2)1492/07-08(01)]	
015020 - 015008	Chairman	Chairman's concern about the provision of education for non-Chinese speaking (NCS) children with SEN and his decision to extend the meeting by 15 minutes.	
015009 - 015558	Mr CHEUNG Man-kwong Chairman	Mr CHEUNG's view that the provision of equal opportunities in education for NCS children with SEN was essential in an international city such as Hong Kong; and the Admin should provide sufficient places in ESF and international schools for these children as soon as possible. Given that an allocation of \$2 million would enable ESF to provide 21 places in learning support classes, the Admin should allocate \$10 million for ESF to provide sufficient places for the 100 NCS children with SEN on the waiting list. His request that the Admin should set a performance pledge for the enrolment of NCS children with SEN in ESF or other international schools.	

Time marker	Speaker	Subject	Action required
015559 - 020005	Mr LEE Cheuk-yan Chairman	Mr LEE's view that as an international city and in line with basic human rights principles and requirements, Hong Kong should provide equal opportunities in education for NCS children with SEN. His request that the Admin should review the policy and formulate a timetable for the school placement of the 100-odd NCS children with SEN on the waiting list of ESF.	
020006 - 020313	Ms Audrey EU Ms Eva Griffith	Ms EU's comment that given the Admin's apathetic response, the deputations might consider approaching the Equal Opportunities Commission (EOC) or the Legal Aid Department for institution of litigation against the Admin for the provision of unequal education opportunities for NCS children with SEN in Hong Kong. Ms Griffin's response that she had written to EOC on the matter in 2006 and would consider Ms EU's suggestion as a last resort.	
020314 - 020843	Mrs Selina CHOW	Mrs CHOW's view that to expect NCS children with SEN to learn in public sector schools adopting Chinese as the medium of instruction was unrealistic, and her request for the Admin to coordinate the allocation of necessary resources and support including training for teachers in ESF and international schools to accommodate the NCS children with SEN awaiting school placement. Her request for a written response from the Administration.	
020844 - 021026	Chairman Admin	PAS(SAS)'s response that the Administration was committed to providing a school place for all eligible children including NCS children with SEN; and had provided a range of support measures for ESF and international schools including allocating land sites at nominal rent for schools.	
021027 - 021559	Chairman Mr CHEUNG Man-kwong Mrs Selina CHOW Admin	Chairman's request for a written response from the Admin on the provision of equal opportunities in education for NCS children with SEN. Mr CHEUNG's view that the Admin should commit to providing a place for the 100-odd NCS children with SEN on the waiting list of ESF as soon as possible. Mrs CHOW's view that the Admin should formulate a plan to resolve the problems. PAS(SAS)'s response that the Admin would have to examine the policy implications of providing	

Time marker	Speaker	Subject	Action required
		funding support to private and international schools for the provision of education for NCS children.	
021600 - 021931	Chairman Mr CHEUNG Man-kwong Admin	Chairman's request for the Admin to review its policies on the provision of education for NCS children with SEN, including those of ethnic minority and expatriate families working in Hong Kong. Mr CHEUNG's view that the provision of some 100 places in learning support classes for NCS children with SEN should not be delayed until the completion of a policy review.	
		PAS(SAS)'s agreement to relay the views of members and the deputations to the Education Bureau (EDB) for consideration. Her remark that EDB would have to consider the competing priorities in the allocation of education resources.	See para 11 of the minutes
021932 - 022022	Mr LEE Cheuk-yan	Mr LEE's suggestion that the Subcommittee should write to the Financial Secretary (FS) on the matter.	See para 11 of the minutes
022023 - 022046	Ms Audrey EU	Ms EU's view that the deputations could write to the Commission for Strategic Development which had a special task force to study the attraction of overseas talents to work in Hong Kong.	
022047 - 022118	Mr CHEUNG Man-kwong	Mr CHEUNG's remark that EDB had an unspent surplus of \$2.4 billion to be returned to the Treasury and more resources should be allocated for the provision of education for NCS children with SEN.	
022119 - 022215	Chairman Ms Audrey EU	The Chairman's agreement to write on behalf of the Subcommittee to FS and EOC on the matter.	See paras 11 & 12 of the minutes

立法會
Legislative Council

LC Paper No. CB(2)2759/07-08
(The minutes have been seen by
the Administration and
the University of Hong Kong)

Ref : CB2/PL/ED

Panel on Education

Minutes of meeting
held on Thursday, 12 June 2008, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon Jasper TSANG Yok-sing, GBS, JP (Chairman)
Dr Hon YEUNG Sum, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon LI Kwok-ying, MH, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Patrick LAU Sau-shing, SBS, JP

Public Officers attending : Agenda item IV

Ms Bernadette LINN
Deputy Secretary for Education (2)

Dr Catherine CHAN Ka-ki
Principal Assistant Secretary (Curriculum
Development), Education Bureau

Ms WU Po-ling
Principal Assistant Secretary (School Administration
and Support), Education Bureau

Mr TAM Koon-che
Principal Education Officer (Hong Kong), Education
Bureau

Agenda item V

Mr Chris Wardlaw
Deputy Secretary for Education (5)

Dr Catherine CHAN Ka-ki
Principal Assistant Secretary (Curriculum
Development), Education Bureau

Dr Francis CHEUNG
Secretary General, Hong Kong Examinations and
Assessment Authority

**Attendance by
invitation** : Agenda item III

University of Hong Kong

Professor Richard Y C WONG
Deputy Vice-Chancellor and Provost and member of
the University Council until 4 December 2006

Mr Henry W K WAI
Registrar

Mrs Yvonne Y K KOO
Head, Human Resource Section of the Registry

Ms Dora K M YUE
Assistant Registrar, Registry

Ms Susanne Reynolds
University Lawyer

**Clerk in
attendance** : Miss Odelia LEUNG
Chief Council Secretary (2)6

Staff in attendance : Mr Stanley MA
Senior Council Secretary (2)6

Miss Josephine SO
Council Secretary (2)1

Miss Carmen HO
Legislative Assistant (2)6

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I. Confirmation of minutes

[LC Paper No. CB(2)2157/07-08]

The minutes of the meeting held on 8 May 2008 were confirmed.

II. Information paper(s) issued since the last meeting

2. Members noted that no information paper had been issued since the last meeting.

III. University of Hong Kong (Amendment) Bill 2008

[LC Paper No. CB(2)2164/07-08(01)]

3. The Chairman informed members that Dr LI Kwok-po, the Member-in-charge of the University of Hong Kong (Amendment) Bill 2008 (the Bill), was unable to attend the meeting due to other engagement. Members noted the supplementary information provided by the University of Hong Kong (HKU) which was tabled at the meeting [LC Paper No. CB(2)2281/07-08(01)].

Briefing by the University of Hong Kong

4. Professor Richard WONG briefed members on the background and purposes of the Bill. He highlighted that in response to the recommendation made in the University Grants Committee (UGC) Report on Higher Education in Hong Kong in March 2002, the Council of the University of Hong Kong (the Council) had set up an independent review panel (the Review Panel) comprising Professor John Niland, Professor Neil Ruderstine and the Chief Justice to conduct a review of the governance and management structure of HKU. In the report of the review entitled "Fit for Purpose", an inconsistency was identified in the role of the Court of HKU (the Court) and the Council as described in section 7 of the University of Hong Kong Ordinance (the Ordinance) and the University of Hong Kong Statutes (the Statutes). In addition, the Audit Commission conducted a value-for-money audit on the UGC-funded institutions

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including their governance in 2003, and recommended, among others, that UGC should request HKU to rectify the inconsistency in the role of the Court and the Council in the Ordinance and the Statutes. The recommendation was endorsed by the Public Accounts Committee (PAC). The Bill sought to rectify the inconsistency. Under the Bill, the Court and the Council were defined as the "supreme advisory body" and the "supreme governing body" respectively.

5. Professor Richard WONG further said that the Bill also provided for the amendment to the existing academic titles of teachers used by HKU which would comprise Assistant Professor, Associate Professor, Professor and Chair. Professor WONG stressed that staff and staff associations had expressed support for the proposed change during consultation in the Human Resource Reform exercise. The transitional provision in the Bill ensured that staff members who decided to retain the old academic titles of Reader, Senior Lecturer, Lecturer and Associate Lecturer would continue to enjoy the "good cause" protection in their employment with HKU. Professor WONG appealed to members to support the Bill.

Role and composition of the Court and the Council

6. Ms Emily LAU said that members of the Panel and PAC had all along been concerned about the governance and management structure of the UGC-funded institutions. She pointed out that unlike other UGC-funded institutions the governing bodies of which comprised Legislative Council (LegCo) representatives, LegCo Members only sat on HKU's advisory body (the Court) and not its governing body (the Council). She asked how members of the Council were appointed.

7. Professor Richard WONG said that in its report entitled Fit-for-Purpose, the Review Panel recommended that the size of the Council should be in the range of 18 to 24, with each member appointed or elected in his personal capacity and serving as trustee instead of delegate or representative of a particular constituency. Currently, the Council consisted of the Vice-Chancellor as an ex-officio member, four teachers, two students, one staff member, two members elected by the Court, and other members who were nominated and/or appointed by the Council and/or the Chancellor.

8. Mr CHEUNG Man-kwong shared the concern of Ms Emily LAU about the absence of LegCo representation in the Council. He pointed out that except HKU, the Chinese translation of the governing bodies of all other UGC-funded institutions, i.e. Council, was "校董會" and not "校務委員會". He suggested that to avoid confusion about the role of its Court and Council, HKU should amend the Chinese name of the Council to "校董會" and that of the Court to "校務委員會".

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9. Professor Richard WONG responded that the Chinese names of the Court and the Council had been in use since the establishment of HKU in 1911, and there was no intention of misleading their roles. The Council had considered amending these names to reflect the advisory role of the Court and the governing role of the Council, but diverse views had been expressed. This was understandable as the two Chinese names had been used for about a century and might have sentimental value to some stakeholders. Professor WONG added that any proposal to change these names would require extensive consultation.

10. Mr CHEUNG Man-kwong pointed out that the academic titles had been used by HKU for a long period of time but legislative proposals were made to bring them in line with the conventional use. Similarly, legislative proposals should be made to change the Chinese names of the Court and the Council to bring them in line with those adopted by other institutions. He queried why HKU adopted different approaches with respect to these two issues. Mr CHEUNG added that notwithstanding its long history, the Faculty of Medicine of HKU had been renamed as HKU Li Ka Shing Faculty of Medicine.

11. Professor Richard WONG explained that personally, he would not object to change the Chinese names of the Court and the Council to bring them in line with those used by other institutions. However, HKU must respect the views of the stakeholders and many of them preferred to retain the existing Chinese names. He further said that the proposed amendment to the academic titles was made after extensive consultation. Around 98% of teachers had expressed support for the new titles which were in line with the academic titles adopted by local and overseas institutions.

12. Ms Audrey EU declared interest as a graduate of HKU. She pointed out that the renaming of the Faculty of Medicine had given rise to heated debate and discontent among the stakeholders because of lack of consultation. She accepted Professor WONG's explanations for the continued use of the existing Chinese names of the Court and the Council and the amendment to the academic titles. She recalled that before the change of sovereignty, there had been a proposal to change the Chinese name of barrister which was fiercely objected by the profession.

Transparency and accountability

13. Ms Emily LAU considered that to enhance transparency and accountability, the UGC-funded institutions should make available the agendas and minutes of meetings of their governing bodies for public information, except for those items which involved confidential or commercially sensitive information.

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14. Professor Richard WONG responded that the Panel had requested the eight UGC-funded institutions to consider making available the agendas and minutes of meetings of their governing bodies for public information. The Heads of Universities Committee had discussed the matter thoroughly and considered it inappropriate for the governing bodies to do so as personnel as well as strategically or commercially sensitive matters were often discussed at these meetings. Nevertheless, the UGC-funded institutions would make public announcement on decisions and policies which were of public interest through press conferences or press releases as appropriate.

15. Dr Fernando CHEUNG considered that the UGC-funded institutions as publicly-funded institutions should make available the agendas and minutes of meetings of their governing bodies for public access. Their operation should be transparent. He said that he had been an elected member of the Council of the Hong Kong Polytechnic University and found that matters relating to the appointment or terms of employment of individual staff were rarely discussed at the Council meetings. He could not see the reasons for keeping the discussions and the papers relating to institutional management and development confidential.

16. Professor Richard WONG explained that the Council would discuss property-related, staff management, and strategic and institutional development issues at meetings which involved confidential or commercially sensitive information that should not be disclosed to the public. Dr Fernando CHEUNG remarked that the Housing Authority was responsible for a large number of public estate development projects but its meetings were open.

17. Professor Richard WONG pointed out that HKU was the first UGC-funded institution to conduct a review on its governance and management structure, and had adopted the recommendations of the Review Panel to restructure its Council comprising eight internal members and a majority of external members. The Council had discussed the Panel's request for making public the agendas and minutes of its meetings and decided that it was inappropriate to do so. Other institutions had also considered the matter and decided likewise. Nevertheless, Professor WONG undertook to relay members' views on the matter to the Council for consideration.

Attendance at meetings

18. Ms Emily LAU noted with concern the non-attendance of some external members of the Council at Council meetings. She pointed out that of the 11 Council meetings held during February 2007 to May 2008, some members had been absent from five meetings or more. In her view, external members with low attendance rate at Council meetings should not be considered for reappointment.

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19. Professor Richard WONG responded that a nominations committee formed under the Council identified suitable candidates for appointment as lay members. In nominating candidates for reappointment, the committee would consider the expertise needed in the different areas to enable the Council to discharge its responsibilities effectively as well as the candidate's past performance and attendance at Council meetings. There were lay members who had not been reappointed in the past.

Conditions of employment

20. Referring to Annex B to the paper provided by HKU, Mr CHEUNG Man-kwong asked whether the proposed amendments to section 12(10) of the Ordinance and Statute XXVIII paragraph 1(1)(b) would impact the terms and conditions of employment of serving staff .

21. Professor Richard WONG responded that the proposed amendments would not affect the terms and conditions of employment of serving staff. He pointed out that about 98% of teachers had used the new academic titles, and only 2% of teachers had retained the old titles for personal reasons. He added that for teachers not yet employed on substantiated terms with "good cause" protection, their employment was "probationary". The proposed amendments made it clear that the "probationary" employment status were contracts for a fixed term.

22. Mr LEE Cheuk-yan declared interest as a graduate of HKU. He sought information on the policy for the conversion of academic and non-academic staff on probationary terms into substantiated terms.

23. In reply, Professor Richard WONG said that all academic staff in HKU were employed on contract terms initially. Normally, they would be considered for substantiated employment after satisfactory completion of two three-year contracts. As regards non-academic staff, the maximum number for substantiated employment had been adjusted from 75% to 80% of the establishment.

Urgency of the Bill

24. Dr YEUNG Sum declared interest as a staff member of HKU. He enquired about the urgency for passage of the Bill, and the impact of not enacting the Bill in the current session. He said that the urgency or otherwise of the Bill would have bearing on members' consideration of the need for the formation of a bills committee to study it.

25. Professor Richard WONG replied that according to legal advice, it was desirable to rectify the inconsistency between the Ordinance and the Statutes concerning the respective powers and roles of the Court and the Council. Even if

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the Bill was not enacted in the current session, the operation of HKU would not be affected. However, the enactment of the Bill in the current session would enable the change of the academic title of "Instructor" to "Lecturer" with effect from the 2008-2009 academic year. He stressed that the change of the academic titles would not affect the terms of employment of the staff in question. The Council had assured teachers that their entitlement to "good cause" protection in employment would not be affected by the adoption or otherwise of the new academic titles. As "good cause" protection for teachers was enshrined in the Ordinance, a small number of staff members would feel comfortable if the Bill could be enacted to amend the titles of Teachers and to state clearly their enjoyment of "good cause" protection. Professor WONG added that subject to members' support, the Bill would be introduced into LegCo shortly.

26. Mr Tommy CHEUNG expressed dissatisfaction with the late introduction of the Bill with expectation of its enactment in the current session. He said that many LegCo Members had complained about the Administration's late introduction of bills into LegCo. He stressed that due process in scrutiny of legislative proposals must be adhered to. He would propose the formation of a bills committee to scrutinize the Bill at the relevant meeting of the House Committee.

27. The Chairman recapitulated Professor Richard WONG's advice in paragraph 25 above in response to Dr YEUNG Sum's question. Professor WONG clarified that HKU would certainly respect the due process of LegCo in scrutiny of legislative proposals.

28. Mr LEE Cheuk-yan said that while the due process should be adhered to, whether a bills committee should be formed to scrutinize a bill should be on a need basis. Should the Bill involve no controversial issues, it might not be necessary to set up a bills committee.

29. Mr Albert CHAN said that members should take into account the views of stakeholders and not just those of HKU's management in deciding on the formation of a bills committee to examine the Bill. He did not have confidence in the HKU's Council in the light of the renaming of the Faculty of Medicine as HKU Li Ka Shing Faculty of Medicine for the provision of a private donation. Under these circumstances, he considered it necessary to set up a bills committee to examine the Bill.

30. Professor Richard WONG explained that the stakeholders including students and staff and their unions and associations had been thoroughly consulted on the proposals in the Bill since 2004. The amendments to the respective roles of the Court and the Council were proposed in response to the recommendations of the Director of Audit. Mr Albert CHAN remarked that he had reservations about the role and composition of the Court and the Council and would propose the formation of a bills committee to study the Bill.

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31. Mr Abraham SHEK declared that he was one of the LegCo representatives sitting in the Court. He expressed support for the Bill and did not consider it necessary to form a bills committee. He pointed out that PAC had examined and supported the recommendations of the Director of Audit that HKU should rectify the inconsistency between the Ordinance and the Statutes concerning the powers and roles of the Court and the Council by legislative amendments.

32. Ms Emily LAU said that as the Deputy Chairman of PAC in 2003, she had examined the governance and management structure of HKU and considered that HKU should improve transparency of its management to enhance accountability as well as to uphold academic freedom and institutional autonomy. She supported the formation of a bills committee to examine the proposals in the Bill in detail.

33. Dr YEUNG Sum said that LegCo should adopt a prudent approach in the scrutiny of the Bill. As the Bill would unlikely be enacted in the current session should a bills committee be formed, he suggested that HKU might take this opportunity to consider including LegCo representation in its Council instead of the Court to enhance public participation in its management as LegCo Members were representatives of the public.

34. Professor Richard WONG thanked members for their views and suggestions and undertook to relay these to the Council for consideration.

35. Concluding the discussion, the Chairman said that he would report the deliberations of the Panel on the Bill to the House Committee after it was introduced into LegCo, and it was up to the House Committee to decide on the formation of a bills committee to examine the Bill.

[Post-meeting note : the Bill was not introduced into LegCo before the end of the term.]

IV. Education for ethnic minority students

[LC Paper Nos. CB(2)2164/07-08(02)-(03), CB(2)2025/07-08(01), CB(2)1465/07-08(02), CB(2)1599/07-08(01)-(02), CB(2)1792/07-08(01) & (02) and CB(2)2032/07-08(01)]

36. The Chairman said that members agreed at the meeting on 29 February 2008 that the Panel should receive views from deputations when the subject of education for ethnic minority students was re-visited in June 2008. However, as the Panel had earlier agreed to discuss three items at this meeting and in consideration of the time constraint, the deputations were advised to give written views instead of attending the Panel's meeting. The Chairman informed

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members that Hong Kong Unison Limited and Growing Together had sent in their written submissions [LC Paper Nos. CB(2)1450/07-08(01) and CB(2)1971/07-08(01)].

37. Members were invited to note the following relevant papers -

- (a) the Administration's paper to the Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs (the Subcommittee) on "Education for non-Chinese speaking and ethnic minority children with special educational needs";
- (b) copies of correspondence between the Chairman of the Subcommittee and the Administration; and
- (c) letters exchanged between the Chairman of the Subcommittee and the Chairperson of the Equal Opportunities Commission.

38. Members also noted the background brief entitled "Education for non-Chinese speaking students" prepared by the LegCo Secretariat.

Briefing by the Administration

39. Deputy Secretary for Education (2) (DS(Ed)2) took members through the Administration's paper which provided an update on the progress of support measures for non-Chinese speaking (NCS) students including ethnic minority students.

Access to post-secondary education

40. Dr Fernando CHEUNG expressed concern about the small number of NCS students progressing to senior secondary classes/admitted to undergraduate programmes. He noted from the Administration's paper that of the 225 NCS students studying in Secondary 5 in the 2006-2007 school year, 212 sat for the Hong Kong Certificate of Education Examination (HKCEE) in 2007, with 73 having met the minimum requirements for admission to Secondary 6 (S6). Regarding Secondary 7 (S7), only six of the 23 NCS students who sat for the Hong Kong Advanced Level Examination (HKALE) in 2007 were admitted to first-year undergraduate programmes of the UGC-funded institutions for the 2007-2008 school year. The figures reflected the insufficient opportunities for NCS students to access post-secondary education. Dr CHEUNG expressed reservations about the effectiveness of the Supplementary Guide to the Chinese Language Curriculum for NCS Students in enhancing NCS students' opportunities to pursue tertiary education, as the Supplementary Guide was neither related to a teaching curriculum/assessment nor meant to be an alternative Chinese Language curriculum for NCS students.

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41. In response, DS(Ed)2 elaborated on the relationship between curriculum, assessment and teaching. She pointed out that it was a common practice for schools to design and develop the subject curriculum with reference to the syllabuses of the examination(s) for which their students sat, and school teachers to adapt textbooks or develop school-based teaching and learning resources to support their delivery. With the significant step taken by the UGC-funded institutions to consider alternative Chinese Language qualifications for admission to their undergraduate programmes, the Administration believed that the aspiration for higher education of NCS students who were studying in local schools and preferred to attain alternative qualification(s) in Chinese could be addressed, since they could sit for the General Certificate of Secondary Education (GCSE) (Chinese) examination, which was simpler than the Chinese paper in HKCEE or the future Hong Kong Diploma of Secondary Education by design.

42. Ms Emily LAU shared the view of Dr Fernando CHEUNG that NCS students did not have sufficient opportunities to access post-secondary education, as only 3% of NCS students were admitted to first-year undergraduate programmes of the UGC-funded institutions for the 2007-2008 academic school year. She enquired whether the university admission rate of NCS students was on the low side when compared with the Chinese-speaking students.

43. DS(Ed)2 responded that the university admission figure stated in paragraph 11 of the Administration's paper only included NCS students studying in public-sector secondary schools and taking HKALE in 2007. Noting the concerns about the movement of NCS students across the various levels in primary and secondary education and the rate of articulation to further education among the NCS students, the Education Bureau (EDB) had, beginning from the 2006-2007 school year, started to collect information on students' ethnicity and spoken language at home from Primary 1 to S7 through the annual Student Enrolment Survey. The Administration would continue to keep track of the statistics.

44. Mr CHEUNG Man-kwong was pleased to note that more than 80 public sector schools had responded positively to the Administration's invitation to accept alternative Chinese Language qualification(s) under the S6 Admission Procedure and to make conditional offers to those applicants satisfying all the criteria (other than the one on Chinese Language) for admission to their S6 classes under specified circumstances at each stage of the Procedure, pending the release of the relevant examination results in late August. He hoped that these schools would honour their pledge when considering the application of NCS students fulfilling all the admission requirements and having attained equal or higher points compared with their counterparts for admission to S6.

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45. Responding to Professor Patrick LAU's enquiry about the reason for the small number of NCS students admitted to S6 and undergraduate programmes, DS(Ed)2 said that in considering an application for admission to S6, schools might take into account other factors in addition to the HKCEE results, such as the Chinese Language requirement for entry to HKALE. For applications under the Joint Universities Programmes Admissions System, the UGC-funded institutions had set Chinese Language requirements in the relevant HKCEE and HKALE subjects for admission. Hence, the failure of some NCS students to attain the requisite Chinese Language proficiency might be a reason for the low admission rate to S6 and undergraduate programmes. The Administration believed that with 80 public-sector schools and the UGC-funded institutions accepting alternative Chinese Language qualification(s) for admission to S6 and undergraduate programmes respectively, NCS students could enjoy better opportunities for access to higher education in future.

Designated schools

46. Ms Emily LAU expressed concern about the possible labelling effect on NCS students studying in designated schools.

47. DS(Ed)2 explained that in recent years, EDB had been providing focused support to schools designated to receive such support in enhancing the learning and teaching of NCS students, including children of ethnic minorities. The objective of providing focused support in these schools was to facilitate their accumulation of experience and development of expertise in the teaching and learning of NCS students, so that they might serve as the anchor point for sharing experience with other schools which had also admitted NCS students through a support network formed. Relevant learning and teaching materials developed by EDB in collaboration with these designated schools had been uploaded onto the EDB webpage with printed copies made available in the EDB Central Resources Centre for teachers' reference and adaptation. The approach of providing focused support aimed to benefit all NCS students studying in local schools.

Provision of relevant teaching and learning materials

48. Mr CHEUNG Man-kwong considered that given the vastly different levels of proficiency of NCS students in Chinese Language, it was imperative that the teaching and learning materials, including textbooks, used by schools should meet the educational needs and abilities of NCS students. He was of the view that teaching materials and textbooks, if well designed, could enhance the learning effectiveness of NCS students. In this light, the Administration should organize a group of experts, including in-service teachers, to co-ordinate the development and publication of teaching materials/textbooks for Chinese Language for NCS students, which should be designed to the following specifications -

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- (a) the materials/textbooks should facilitate the progressive delivery of course curriculum, starting from the basics to the more advanced levels, to prepare the NCS students for public examinations in Chinese Language, including GCSE, General Certificate in Education and International General Certificate of Secondary Education;
- (b) to support NCS students in meeting the learning targets, the materials/textbooks should comprise as many learning modules as possible, each building on the previous level to enable Chinese Language learning on a step-by-step basis;
- (c) the learning modules should be flexibly designed to facilitate the multiple entry and exit of NCS students at various levels; and
- (d) the Administration should ensure a good interface, in terms of content and standard, between the Chinese textbooks/teaching materials designed for use by primary and secondary schools under the new senior secondary academic structure.

Mr CHEUNG further said that split-class teaching should be the recommended approach for teaching and learning of Chinese language by NCS students.

49. Dr YEUNG Sum fully supported Mr CHEUNG Man-kwong's view about the need to produce specially designed and properly interfaced Chinese Language textbooks for NCS students. He was not convinced of the explanation as set out in the Administration's paper that it was more effective to make use of a variety of resources embracing both print and non-print materials rather than one single set of one-size-fits-all textbooks. He considered that three sets of textbooks should at least be produced for each grade in primary and secondary schools to meet the diverse needs of NCS students at various proficiency levels. Moreover, given the small market for publication of Chinese Language textbooks for NCS students, publishers would unlikely embark on such a business. It was therefore necessary for the Administration to provide financial support for publishers in this regard.

50. In response to Mr CHEUNG Man-kwong and Dr YEUNG Sum's views, Principal Assistant Secretary (Curriculum Development) (PAS(CD)) made the following points-

- (a) the Administration recognized the importance of providing appropriate textbooks for NCS students. As reported in February 2008, given the various language and cultural backgrounds, learning needs and aspirations among the NCS students, the Administration considered it more appropriate to develop learning resources for NCS students based on the teaching and learning materials developed by schools with NCS students;

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- (b) since 2003, EDB had been sponsoring production projects on Chinese Language teaching resources for NCS students through the Quality Education Fund (QEF). To address the concern over the lack of specially designed textbooks for NCS students, EDB had explored further utilization of QEF. It would produce and disseminate quality teaching materials through adapting QEF projects on teaching materials for Chinese Language developed in Hong Kong school settings. While the first set of teaching materials would be ready for publication and dissemination in a year's time, the Administration would continue to collect and enhance other school materials to make available additional set(s) of learning and teaching resources. It would, however, take some time for the Administration to complete the adaptation work;
- (c) initially the learning materials referred to in paragraph (b) above would be organized to support mainly the mode of Learning Chinese as a Second Language, starting with easier materials at the entry point of learning. At the same time, the Administration was adapting a series of existing Chinese Language learning and teaching materials, as outlined in Annex 1 to the Administration's paper, to suit the needs of NCS students at various proficiency levels. These existing learning and teaching materials were considered as important as textbooks; and
- (d) in future, primary and secondary teachers were expected to understand the achievements and abilities of their NCS students at various key stages of education. The Administration was currently launching a collaborative study on Chinese language standards of NCS students with the assistance of tertiary institutions. Upon the completion of the study towards the end of 2008, the Administration would proceed with the development of internal assessment tools that would help provide feedback on Chinese Language learning by NCS students and would in turn facilitate the teaching process.

51. Ms Audrey EU echoed members' view that the Administration should develop standardized Chinese Language textbooks for NCS students. Referring to the learning and teaching materials as described in Annex 1 to the Administration's paper, she asked whether the educational coursewares/softwares were designed to facilitate self-studies at home, and whether NCS students were required to possess Chinese word processing skills and be familiar with the operations of computer before they could make use of the learning packages. She held the view that Chinese Language textbooks, references and multi-media materials etc. for NCS students should be designed to match with the language ability of NCS students at different stages instead of their age.

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52. In response, PAS(CD) reiterated that EDB was still in the process of collecting teaching materials developed by designated schools for wider circulation to schools with NCS students. There was no pre-determined number for the sets of teaching materials to be developed. Initially, the Administration aimed to make available two to three sets of such resources embracing both print and non-print materials rather than one single set of one-size-fits-all textbooks for NCS students. Regarding the packaged materials described in Annex 1 to the Administration's paper, they were a series of online self-access learning materials, all with English annotation, exclusively designed for NCS students to learn Chinese. These resource packages could be used for class or after-class learning to raise the independent learning ability of NCS students. Experience showed that they were well received by schools and students. PAS(CD) further advised that to cater for NCS students with different standards, learning and teaching would be geared to students' different starting points in their Chinese learning with appropriate grouping to facilitate learning. For some older students with lower standards, teachers could set for them a lower starting point with relevant learning objectives. Different classes and groups could have different access points and learning objectives. Teachers need to assess students' learning progress constantly and re-group them accordingly to adjust to their learning.

Support for NCS students with special educational needs

53. Dr Fernando CHEUNG referred members to the submission of Growing Together which cited the international equivalents that up to 7% of school age children had special educational needs (SEN). He said that based on the results of the 2006 Population By-census, there were 28 722 full time NCS students in Hong Kong. Even if a lower rate (say 5%) was adopted, there were at least 1 400 NCS students with SEN in Hong Kong, which was far more than the 22 NCS students with SEN studying in the 18 designated schools for NCS students. He asked whether the Administration was aware of the actual situation.

54. Dr Fernando CHEUNG added that although the English Schools Foundation (ESF) and some international schools provided NCS students with SEN alternatives outside the public school sector, there were currently 103 NCS children with SEN on the waiting list for the limited places in ESF schools, and the average waiting time for enrolment ranged from 24 to 36 months. Citing the experience of a NCS student with SEN, who suffered from attention deficit/hyperactivity disorder and failed to secure a school place in any international schools as well as the ESF schools, he expressed concern about the provision of equal opportunities for NCS children with SEN. As independent international schools were reluctant to admit NCS children with SEN, many NCS children with SEN were given no choice but to enrol in public sector mainstream schools which adopted Chinese as the medium of instruction. These NCS children were struggling hard to learn in a language that was not conducive to the realization of

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their full potential. For this reason, Dr CHEUNG strongly requested the Administration to ensure the admission of NCS children with SEN by ESF or other international schools. As the Administration had stated in its paper that it was exploring the possibility of further enhancing the provision of school places and support for NCS students with SEN in the ESF system, he sought details in this regard. He also asked about the support and resources provided for other international schools to cater for the educational needs of NCS students with SEN.

55. In response, DS(Ed)2 made the following points -

- (a) the international equivalents which suggested that about 5% to 7% of school age children had SEN might not apply to Hong Kong. The number of NCS students with SEN referred to in the Administration's paper only represented the enrolment of these students in the 18 designated schools. The number of NCS students studying in other public sector schools was currently not available. The Administration would collect the relevant data from public sector schools to compute the number of NCS students with SEN and would revert to the Panel once the information was available;
- (b) it was the Government's established policy to facilitate early integration of NCS students, including students with SEN, into the local education system. In Hong Kong, eligible children irrespective of ethnic origin and physical or intellectual ability had the right to enjoy basic education in public sector schools. NCS children including those with SEN were encouraged to study in public sector schools so that they could integrate into the local community as early as possible. It should be emphasised, however, that studying under the local education system did not mean that the students would be forced to learn in the Chinese medium at all cost, as the local system also provided a number of schools, including some of the designated schools, adopting the English medium. The Government's role was to ensure that there would be an avenue for those NCS students with SEN who would indeed learn better in English to access English-medium learning in the public sector; whether the choice of schools available in the public sector met the wish list of individual parents would be another matter. Against this background, the Government had been providing ordinary public sector schools with additional support and resources to cater for the needs of students with SEN, including NCS students;

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- (c) in addition to the above, there were other education opportunities outside the public school sector for NCS students with SEN. ESF, which received some subvention from the Government, was operating a special school and learning support classes in its primary and secondary schools for NCS students with SEN. To help the ESF schools address its waiting list problem, the Administration had exceptionally provided ESF with an additional provision of \$2 million starting from the 2006-2007 school year, which had enabled ESF to operate three additional learning support classes with a provision of 21 new school places for students with SEN. The Administration was also exploring the possibility of further enhancing the provision of school places and support for NCS students with SEN in the ESF system; and
- (d) for the other international schools which provided alternatives for NCS students with SEN, it was noteworthy that they were operated on a self-financing basis in the commercial market, with minimum intervention from the Government. However, these international schools, like the ESF schools, should provide equal opportunities for all students in terms of student admission, teaching curriculum and assessment, etc.

56. Ms Emily LAU shared the concern about the Administration's under-estimation of the number of NCS students with SEN. She expressed strong dissatisfaction about the inertia on the part of the Administration in addressing the varied educational needs and aspirations of NCS students. She urged that more resources should be provided for strengthening the support for NCS students, including those with SEN.

Other support measures

57. Mr Albert CHAN considered that to further help NCS students integrate into the local community, the Government should provide more educational support for NCS students. He was disappointed that there was no mention in the Administration's paper of the role of non-governmental organisations (NGOs) which had been providing a wide variety of supporting services for ethnic minority groups from South Asian countries. He suggested that EDB should make reference to the more flexible practices adopted by the Home Affairs Department to facilitate these NGOs in the acquisition of premises, e.g. vacant school premises or public rental housing units, to run Chinese Language Learning Support Centres, so that specific remedial programmes after school hours and during holidays could be arranged for NCS students. He also suggested that financial subsidy, in the form of tax concession, be provided for parents whose NCS children were studying in international schools.

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58. DS(Ed)2 responded that the Administration would continue to focus on enhancing the overall quality of school education and deal with improvement measures requiring additional resources in accordance with the established procedures of resource allocation. Regarding the suggestion of commissioning NGOs to run Chinese Language Learning Support Centres outside school education, the Administration would welcome constructive proposals from NGOs and consider when details were available.

59. Mr Abraham SHEK appreciated the Administration's effort in mapping out the support measures for NCS students. He, however, expressed concern about the effectiveness of these measures in enhancing NCS students' Chinese language proficiency. He said that from what he had observed during the Panel visit to schools with NCS students, the NCS students were not provided with an enabling environment conducive to their learning of Chinese Language. He cautioned that the proficiency of students of ethnic minorities in Chinese Language would affect their future development. The Administration should review its policy and strategies on education for NCS students, and allocate more resources to help NCS students to learn Chinese language effectively, with a view to enabling them to integrate into the local community. Moreover, it should make reference to the successful experience of ESF in teaching Chinese to children whose first language was not Chinese.

60. Dr YEUNG Sum said that it would be difficult for NCS students to follow the progress of Chinese lessons in normal class size. He shared the view that further support should be provided for schools which implemented integrated education and had an intake of NCS students with diversified backgrounds. The support measures should include the provision of additional Chinese Language teachers, diversified learning and teaching materials specially designed for NCS students, and partitions to create additional rooms for split-class teaching. Dr YEUNG was given to know from the Panel visit to schools with NCS students that some bright NCS students considered the GCSE examination relatively simple. He considered that it might be necessary to adopt more than one approach to suit the different needs, aspirations and development of NCS students in the same school.

V. Progress of preparation for the new senior secondary and higher education academic structure

[LC Paper Nos. CB(2)2164/07-08(04) and (05)]

61. Members noted the updated background brief entitled "New academic structure for senior secondary education and higher education" prepared by the LegCo Secretariat.

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Briefing by the Administration

62. DS(Ed)5 briefed members on the progress of preparation for the new senior secondary and higher education academic structure as detailed in the Administration's paper.

School-based Assessment (SBA) of new senior secondary (NSS) subjects

63. Mr CHEUNG Man-kwong said that he remained of the view that SBA should only be implemented for subjects currently with SBA in the Hong Kong Certificate of Education Examination (HKCEE). He considered it inappropriate to fix a schedule for the implementation of SBA for the other NSS subjects, in particular for the Liberal Studies for which the preparation of the curriculum and the pilot studies on teaching pedagogies were in progress. He suggested that SBA for these other NSS subjects should be implemented in small classes on a pilot basis, and whether SBA should be formally implemented for these subjects should depend on the operational experience.

64. DS(Ed)5 responded that EDB had conducted four rounds of consultation on SBA and had made significant adjustments to the original implementation timeframe. With the support of the Curriculum Development Council and the Hong Kong Examinations and Assessment Authority (HKEAA), SBA for 12 subjects, including those with SBA currently in the HKCEE, Liberal Studies and the laboratory component in the four science subjects would be implemented in 2012. SBA for 11 other subjects would be deferred for two to four years and there would be no timeframe for implementation of SBA in Mathematics. EDB hoped that the arrangements would provide sufficient time for schools to complete the development work and get familiar with the administration of planned SBA activities.

65. Principal Assistant Secretary (Curriculum Development) supplemented that EDB would provide professional development for teachers on the 24 subjects under the NSS curriculum. In addition, EDB would encourage schools to teach the 11 subjects for which implementation of SBA would be deferred by two to four years and gather relevant information to facilitate SBA implementation for these subjects in due course. She added that under the curriculum reform for basic education, the basic elements of SBA such as project and group assignments had already been incorporated in basic education for a few years. Schools and their students were becoming increasingly ready for implementation of SBA of NSS subjects. The Administration was confident that schools would be able to implement SBA in accordance with the revised schedule in a smooth and successful manner.

66. Secretary General, Hong Kong Examinations and Assessment Authority added that HKEAA would collaborate with EDB to conduct evaluation and analysis on the implementation of SBA for the first 12 subjects starting from

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2009. The useful experiences and the good practices identified would help SBA implementation in the remaining subjects in the long term. The Administration would review the implementation of the new academic structure together with SBA in 2013 using the experience of the early cohorts.

Additional classrooms for special schools

67. Mr CHEUNG Man-kwong said that he had received complaints from special schools about the progress on the construction of additional classrooms for implementing the NSS academic structure in 2009. He was given to know that EDB had undertaken to arrange for the construction of additional classrooms for special schools, but the construction works had yet to be started. Mr CHEUNG pointed out that the planning and construction of additional classrooms would take time and affect teaching and learning activities in the special schools concerned. He requested EDB to provide written information on the agreed provision of additional classrooms for individual special schools.

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68. DS(Ed)5 responded that EDB was collaborating with relevant departments on the preparatory work for the construction of additional classrooms for implementing the NSS curriculum in special schools. EDB envisaged that there should be no major problem with the provision of additional classrooms for special schools to support senior secondary classes. Should the required classrooms for some individual special schools not be completed in time, EDB would make contingency arrangements for these schools to implement the NSS curriculum. He agreed to provide written information on the construction of additional classrooms for special schools.

Provision of teachers for implementing the NSS curriculum

69. Mr CHEUNG Man-kwong said that under the NSS curriculum, schools would operate more classes in order to offer a wider range of NSS subjects for their students. However, some schools had complained about a reduction of teaching staff establishment despite the increase in the number of classes. He sought information on the number of schools with increased and reduced teaching provision because of the implementation of NSS curriculum and the reasons for the reduced teaching provision.

70. DS(Ed)5 responded that with the improved teacher-to-class ratio for the implementation of the NSS academic structure, overall schools would have improvement in teaching workforce during the transitional and subsequent years. Specifically, EDB would advance the provision of the recurrent Senior Secondary Curriculum Support Grant by one year starting from the 2008-2009 school year, and provide a Diversity Learning Grant to encourage schools to develop a diversified NSS curriculum from the 2009-2010 school year. However, there might be schools with unique circumstances that historically had meant more teachers which would not be needed as a result of the

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implementation of the NSS academic structure. The five year toleration arrangements agreed with schools would allow schools to manage their resources effectively during implementation. He agreed to provide the requested information.

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VI. Any other business

Increase of tuition fees of English Schools Foundation (ESF) schools

71. Mr LEUNG Yiu-chung suggested discussion on matters relating to the increase of tuition fees of ESF schools at the special meeting of the Panel scheduled for 27 June 2008. He said that many ESF parents also wished to give views on ESF management.

72. Mrs Selina CHOW said that many members had received letters from ESF parents on the matter. She considered that the matter was indeed a complaint which should be handled by the Complaints Division of the LegCo Secretariat by convening a case conference. If necessary, Duty Roster Members would refer related policy issues to the Panel for follow-up.

73. At the invitation of the Chairman, the Clerk informed members that the Complaints Division was liaising with a group of ESF parents on the matter and was seeking a written response from the Administration. Pending the Administration's response, the Complaints Division would arrange interview with the ESF parents.

74. The Chairman said that he would get more information about the matter and consider the need to include it for discussion at the special meeting. He would inform members accordingly. Members agreed.

[*Post-meeting note* : the Complaints Division convened a case conference on the matter on 16 July 2008.]

75. There being no other business, the meeting ended at 4:55 pm.

Council Business Division 2
Legislative Council Secretariat
4 September 2008

立法會
Legislative Council

Ref : CB2/PL/CA

LC Paper No. CB(2)1561/08-09

(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

**Minutes of meeting
held on Monday, 19 January 2009, at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present :

Hon TAM Yiu-chung, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon WONG Yuk-man
Hon IP Wai-ming, MH

Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Dr Hon Samson TAM Wai-ho, JP

Member attending : Hon KAM Nai-wai, MH

Members absent : Hon WONG Yung-kan, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Public Officers attending : Item III

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mrs Vivian TING TSUI Wai-ming
Chief Electoral Officer
Registration and Electoral Office

Item IV

Mr Raymond TAM Chi-yuen
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Hubert LAW Hin-cheung
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mrs Apollonia LUI LEE Ho-kei
Principal Assistant Secretary for Security

Attendance by invitation : Item IV

Democratic Party

Mr CHEUNG Yin-tung
General Secretary

Hong Kong Human Rights Monitor

Mr LAW Yuk-kai
Director

Mr KWOK Hiu-chung
Education Officer

Growing Together

Ms Virginia Wilson
Chairperson

Ms Abigail DeLessio
Member

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Clara TAM
Assistant Legal Adviser 9

Ms Elyssa WONG }
Deputy Head, } For items III and IV only
Research and Library Services Division }

Ms Diana WONG } For item III only
Research Officer 2 }

Mr Andy CHAN } For items III and IV only
Research Officer 4 }

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fonny TSANG
Legislative Assistant (2)3

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I. Information papers issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)660/08-09(01) and (02)]

2. Members agreed to discuss at the next meeting on 16 February 2009 the following items proposed by the Secretary for Constitutional and Mainland Affairs (SCMA) –

- (a) Public consultation on prisoners' voting right; and
- (b) Rules and regulations under the Race Discrimination Ordinance.

3. Ms Emily LAU said that during the Chief Executive's Question and Answer Session on 15 January 2009, the Chief Executive (CE) announced that the public consultation on the two electoral methods for 2012 would be deferred to the fourth quarter of 2009 so that the Government could focus on dealing with economic and livelihood issues arising from the financial tsunami. Ms LAU found it unacceptable that CE had made the decision without consulting the Panel. She suggested that the Panel should discuss the issue at this meeting.

4. Mr WONG Yuk-man said that the Administration should know that a deferment on the consultation on the two electoral methods for 2012 would antagonize pan-democratic Members and yet it had decided to go ahead with it. CE's unilateral decision was not conducive to improving relationship between the Executive and the Legislature. He asked the Administration to provide justifications for delaying the consultation and to advise the Panel when the Administration had made a decision on the matter.

5. Mr LEE Wing-tat said that there should be mutual respect between the Executive and the Legislature. He suggested that the post of SCMA should be suspended for six months if the consultation on the two electoral methods for 2012 would be deferred. Mr LEUNG Kwok-hung supported his view.

6. Mr Ronny TONG said that the Legislative Council (LegCo) might be able to come up with a way to enable the Administration to deal with the financial tsunami while not affecting the timetable for conducting consultation on the two electoral methods for 2012. He considered that the Administration should have consulted the Panel before making the decision.

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7. In the light of the strong views expressed by members, SCMA undertook to provide a paper setting out the timetable for the public consultation and the legislative process for the two electoral methods for 2012 for the Panel's discussion at the next meeting.

III. Judicial review on prisoners' voting right

Briefing by the Administration

8. Members noted that on 8 December 2008, the Hon Mr Justice Andrew CHEUNG handed down a High Court judgment on three applications for judicial review relating to prisoners' voting right in LegCo elections (*HCAL 79/2008, HCAL 82/2008 and HCAL 83/2008*). According to the judgment, the provisions disqualifying any prisoner across-the-board from registration as an elector and from voting in LegCo elections contravened the right to vote constitutionally guaranteed under Article 26 of the Basic Law (BL) and Article 21 of the Hong Kong Bill of Rights (HKBOR). However, it would be a matter for the Legislature and the Executive to determine whether, and if so, how prisoners' voting right should be restricted in a reasonable manner. Hon Mr Justice CHEUNG also took the view that the constitutional right to vote of remanded persons (i.e. persons who are remanded in custody awaiting trial) was not affected by any law, and arrangements should be made to enable them to vote on election days whilst being held in custody.

9. SCMA introduced the Administration's paper (LC Paper No. CB(2)660/08-09(03)) which set out the latest developments of the three judicial review cases on prisoners' voting right. On the way forward, SCMA said that the Administration had applied for a 10-month temporary suspension of the Court Order to ensure that prisoners' right to vote would be implemented under an amended legislative framework with appropriate polling arrangements. The Court would consider the application at the hearing on 23 February 2009.

10. SCMA further said that the issue of what reasonable restrictions, if any, should apply to prisoners' voting right was controversial and it was necessary to consult the public on the policy options. Some of the possible options under consideration included –

- (a) to remove the existing across-the-board disqualification of prisoners from registration and from voting;
- (b) to retain the disqualification for persons who were sentenced to imprisonment for a term exceeding a specified length; or
- (c) to disqualify persons who were sentenced to imprisonment for a term exceeding a specified length but to allow them to register as

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electors and to vote in the last few years of their term of imprisonment.

11. Members also noted the following papers on the subject under discussion -
- (a) background brief prepared by the LegCo Secretariat (LC Paper No. CB(2)660/08-09(04));
 - (b) information note prepared by the Research and Library Services Division of the LegCo Secretariat (RLSD) (LC Paper No. IN04/08-09); and
 - (c) submission from the Society for Community Organization (LC Paper No. CB(2)490/08-09(01)).

Discussion

12. Ms Audrey EU expressed concern about the practical arrangements under which prisoners might cast their votes at an election. She raised the following questions –

- (a) whether a prisoner could vote for candidates from the geographical constituency (GC) of his registered address;
- (b) whether a prisoner could cast his vote by post;
- (c) whether candidates could canvass for votes in prisons; and
- (d) what were the existing voting arrangements for persons who were remanded in custody awaiting trial.

Ms EU also requested the Administration to provide more information on overseas practices to facilitate consideration by members.

13. SCMA made the following responses –

- (a) the practical arrangements under which prisoners might cast their votes at an election had yet to be worked out. The Administration was preparing a public consultation document which would set out the various policy options and the practices in overseas jurisdictions;
- (b) in Australia and Canada which allowed prisoners to vote, a prisoner could vote by post or in a mobile polling station set up inside a prison. At present, registered electors in Hong Kong were not allowed to vote by post because there was difficulty in verifying whether the vote had been cast by the registered elector concerned;

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- (c) while registered electors imprisoned could receive election advertisements sent by post, the arrangements for candidates to canvass such electors for votes had yet to be worked out in conjunction with the Electoral Affairs Commission (EAC) and the relevant law enforcement agencies; and
- (d) at present, there was no special arrangement to enable remanded unconvicted persons to vote on the election day whilst being held in custody.

14. In response to Mr IP Kwok-him, Dr Priscilla LEUNG and Ir Dr Raymond HO, SCMA undertook to provide in the consultation document information on the existing disqualification of prisoners' right to register and/or to vote, a table showing the practical voting arrangements for prisoners in countries which imposed restrictions on prisoners' voting right as well as those which did not impose any restriction, and information, if available, on the justifications of countries which imposed a total ban on prisoner's voting right.

15. Mr IP Kwok-him noted that the Court had ruled the across-the-board disqualification of prisoners from registration and voting unconstitutional. He cautioned that if some form of restrictions were to be imposed on prisoners' rights to register as electors and to vote, the Administration had to ensure that the restrictions so imposed would not be subject to legal challenge in the future. He also enquired about the need to amend the Prisons Ordinance (Cap. 234), if candidates were allowed to canvass for votes in prisons before the election.

16. SCMA reiterated that the Court had not suggested that some form of restrictions on voting could not be imposed on prisoners. However, it was for the Executive and the Legislature to decide on reasonable restrictions, if any. Given the controversial nature of the issues, it was necessary to consult the public on the policy options before proceeding to propose amendments to the relevant ordinances. SCMA supplemented that the arrangements for candidates to canvass for votes in prison had to be studied.

17. Mr Ronny TONG held the view that there should not be any restriction on prisoners' voting right as it would contravene BL 25, 26 and 39. In his view, prisoners, irrespective of their terms of imprisonment, had the right to enjoy the services provided by LegCo Members and to protect the interest of their families by voting in an election. Issues such as voting by post, canvassing for votes in prison and security arrangements were all technical in nature and should not be the reasons for depriving prisoners' voting right. He also considered that the application for a 10-month suspension of the Court Order was inappropriate and the Administration should implement the Order without delay.

18. SCMA stressed that the Administration respected the ruling of the Court. The application for a 10-month suspension was necessary to allow time for public consultation and for completing the relevant legislative process.

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19. Mr LEUNG Kwok-hung said that it was regrettable that the Administration had not prepared for the possible outcome of the three judicial review cases. As a result, the Administration needed to apply for temporary suspension of the Court Order. He further expressed concern that according to law, a person who was imprisoned during the nomination period or on the election day would be deprived of the right to stand in an election. He requested that the Administration should also address the issue about the constitutionality of such restriction in the current exercise.

20. SCMA responded that in any judicial review case, the Administration would always prepare for the possible outcome of winning or losing the case. On the present judicial review cases regarding prisoners' voting right, the Administration had conducted some research studies on the issue in advance and thus was able to give an immediate response to the court's judgment when it was delivered on 8 December 2008. Nevertheless, it still required time to consult the public on the policy options for relaxing the ban on prisoners' voting right and prepare for legislative amendments to the relevant ordinances in order to implement the Court's judgment. On the arrangements of being nominated in an election, SCMA said that the Department of Justice had previously studied the issue. The High Court only ruled that the existing general, automatic, and indiscriminate restrictions on prisoners' right to vote and the right to register as electors contravened the right to vote guaranteed under BL 26 and Article 21 of HKBOR. The Administration would nevertheless consider the issue raised by Mr LEUNG.

21. Mr CHEUNG Man-kwong considered a time span of 10 months to complete the relevant legislative process too long. He pointed out that if there was no restriction on prisoners' right to register as elector and right to vote, legislative amendments to the relevant ordinances would be simpler. If restrictions were to be imposed, it was essential to decide where the cut-off line should be drawn. Consequently, it would prolong the legislative process. Mr CHEUNG stressed that the Administration should strive to complete the whole legislative process by the end of the current legislative session in July 2009. He further said that if a specified period of imprisonment was to be set as a cut-off line for any proposed restrictions, he would only make reference to section 53(5)(c) of the Legislative Council Ordinance (Cap. 542) (LCO) which provided that persons convicted of offences against the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) or the Prevention of Bribery Ordinance (Cap. 201) or the Electoral Affairs Commission Ordinance (Cap. 541) would be disqualified from being registered as an elector and from voting within three years after the conviction. He enquired about the background for setting the cut-off line at three years. Mr CHEUNG added that to expedite the legislative process, policy issues should be decided first and the practical voting arrangements could be dealt with later.

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22. SCMA said that the proposed amendments to relevant ordinances would be introduced into LegCo for scrutiny around mid-2009 and hopefully, to be enacted before the end of the current LegCo session. The relevant amendments to the subsidiary legislation in relation to practical electoral arrangements would be introduced into LegCo thereafter. The legislative process would be completed in fall 2009. He agreed that the timetable would be tight, bearing in mind the LegCo's summer recess from mid-July to early October. As regards setting of the cut-off line at three years in LCO, SCMA recalled that the cut-off line had been changed in the past. The Administration would take into account the background in formulating the policy options.

23. Ms Emily LAU held the view that restriction on prisoners' voting right, if any, should be as lenient as possible. She asked whether the Administration had collected views from the community. She expressed concern that the application for temporary suspension of a court order was inconsistent with the spirit of law. She urged the Administration to expedite the legislative process so that prisoners could enjoy their long lost rights. She also suggested that the Administration should organize forums to collect views from prisoners and their family members.

24. SCMA said that the research study on overseas practices revealed that a number of countries including the United Kingdom, Japan and most states of the United States of America had imposed a total ban on prisoner voting. Other countries such as Australia imposed certain restrictions on prisoners' voting right, whereas some countries such as Canada did not impose any restriction. Since the delivery of the judgment, there were divergent views in the community as to whether restrictions on prisoners' voting right should be removed in entirety or whether reasonable restrictions should be imposed. At present, the Administration had not formed any view. The public consultation exercise to be commenced in February 2009 would last six to eight weeks. Taking into account the outcome of the public consultation, the Administration would prepare and introduce the relevant legislative amendments into LegCo.

25. Ms Margaret NG considered the Administration's application to the Court for a 10-month suspension of the Court Order unorthodox. As the Administration had decided not to appeal against the Court ruling, it meant that the Administration accepted the ruling. With due respect to the Court, the Administration should proceed with the necessary work immediately to implement the Court ruling. She considered that the Administration should have applied to the Court for a period of time to comply with the ruling instead of applying for temporary suspension of the Court Order. In her view, there should not be any restriction on prisoners' voting right. She pointed out that if restrictions were to be imposed, the Administration should provide ample justification. She also stressed that for the sake of safeguarding judicial independence, all the restrictions should be clearly stipulated in the law and not to be decided by the Court.

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26. SCMA reiterated that the application for a 10-month suspension was to ensure that prisoners' voting right would be implemented under an amended legislative framework with appropriate polling and security arrangements, and to ensure the integrity and finality of any LegCo by-elections which might be held in the meantime. As to whether an application for a period of time to comply with the ruling should be made, the Administration would defer to the advice of the Department of Justice. He also assured members that restrictions, if any, imposed on prisoners' voting rights would be stipulated in law.

IV. Report of the Hong Kong Special Administrative Region for the United Nations Human Rights Council Universal Periodic Review

Briefing by the Administration

27. Under Secretary for Constitutional and Mainland Affairs (USCMA) introduced the Administration's paper (LC Paper No. CB(2)650/08-09(01)) which briefly set out the mechanism for the United Nations Human Rights Council (UNHRC) Universal Periodic Review (UPR) and the outline of the Report of the Hong Kong Special Administrative Region (the HKSAR Report), which was part of the Report of the People's Republic of China (the China Report) submitted to the United Nations (UN) by the Central People's Government (CPG) under the UPR mechanism. Members noted that the hearing of the China Report would be held on 9 February 2009 in Geneva.

28. Members noted the information note prepared by RLSD on UPR (LC Paper No. IN05/08-09).

Presentation of deputations' views and the Administration's response

29. Mr CHEUNG Yin-tung presented the views of the Democratic Party (DP) as detailed in its submission (tabled at the meeting and subsequently issued to members vide LC Paper No. CB(2) 714/08-09 on 20 January 2009). He criticized that the HKSAR Report which only contained very flimsy information had not reflected human rights issues of public concern. These issues included the Government stalling democratic development, some Hong Kong citizens being deprived of the right to travel to the Mainland and Macau, increasing restrictions on the freedom of the press and speech, and the Government attaching insufficient importance to the education of human rights. Mr CHEUNG said that DP would attend the hearing of the China Report on 9 February 2009 to reflect the aspirations of Hong Kong people directly to UN.

30. Ms Abigail DeLessio presented the views of Growing Together (GT) as detailed in its submission (LC Paper No. CB(2) 660/08-09(05)). She expressed concern that the HKSAR Report was silent on the rights of individuals who had special educational needs (SEN), especially those who were members of the ethnic

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minorities or non-Chinese speaking (NCS). In her view, the provision of education opportunities for NCS children with SEN was inadequate. Ms Virginia Wilson supplemented that GT held the view that denying NCS children with SEN the right to receive appropriate and effective educational services in any language other than Chinese violated BL, HKBOR and relevant international treaties and conventions applicable to Hong Kong such as the Convention on the Rights of Persons with Disabilities, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights (ICCPR). She asked about the authorities responsible for investigating these violations and taking measures to redress the problem.

31. Mr LAW Yuk-kai presented the views of the Hong Kong Human Right Monitor (HKHRM) as detailed in its submission (tabled at the meeting and subsequently issued to members vide LC Paper No. CB(2) 714/08-09 on 20 January 2009). Members noted that a copy of the HKHRM's submission for UPR was attached to that submission too. HKHRM held the view that the HKSAR Report was more like a propaganda brochure for tourists because it only set out the existing framework and measures for promoting and protecting human rights without any critical examination of the human rights situation in Hong Kong. He cited the example that the HKSAR Government had restricted freedom of speech by seeking an injunction to prohibit the "Citizens Radio Station" from broadcasting, despite the fact that the Magistrate had ruled the relevant provision of the Telecommunications Ordinance (Cap. 106) unconstitutional. Mr LAW hoped that the Government would provide supplementary information to UNHRC before the hearing on 9 February 2009. He added that HKHRM would also attend the hearing of the China Report on 9 February 2009 to reflect the aspirations of Hong Kong people.

32. Members noted that Mr Andrew K Y CHIU, a member of the Eastern District Council, had provided a written submission [LC Paper No. CB(2)660/08-09(06)].

33. USCMA made the following responses to deputations' views expressed at the meeting –

- (a) UNHRC was established by the UN General Assembly Resolution 60/251 of 15 March 2006 to replace the UN Commission on Human Rights. Given that some of the Members States were developing countries with limited resources, UNHRC required that a national report for UPR should not exceed 20 pages. As the HKSAR Report formed only a section of the China Report, which also included a section on Macau, the HKSAR Report was limited to several pages only. The HKSAR Report, apart from setting out the existing framework and measures for promotion and protection of

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human rights, also set out the latest development on human rights matters. If Member States had any queries about the HKSAR Report before 9 February 2009, representatives of the HKSAR Government would provide supplementary information to UNHRC through CPG;

- (b) as for the two electoral methods for 2012, CE had already explained the matter at the Question and Answer Session on 15 January 2009. Although the public consultation had been slightly postponed, the objective of the Government to determine these two electoral methods within its current tenure had not changed;
- (c) on matters concerning entry into the Mainland and Macau, the HKSAR Government respected the immigration checks and control policies of other jurisdictions;
- (d) the HKSAR Government upheld the principles enshrined in the Basic Law which provided that Hong Kong residents shall have freedom of speech, of the press and of publication, etc. Radio and television stations were regulated by the licensing regime stipulated in applicable laws. He was not in a position to comment on individual cases, particularly those cases under judicial procedures;
- (e) the Administration had earmarked provision for promoting human rights. For instance, following the enactment of the Race Discrimination Ordinance (Cap. 602), the Constitutional and Mainland Affairs Bureau (CMAB) had secured \$8 million one-off allocation and \$16 million recurrent allocation for the setting up and running of regional support service centres for ethnic minorities. CMAB had also expended several million dollars for the promotion and education efforts on human rights. The Education Bureau (EDB) had embedded related learning elements in the curriculum coverage of the network of schools;
- (f) where an international treaty/convention was applicable to Hong Kong, the relevant policy bureaux had the duty to ensure that the existing laws and policies under their purview were consistent with the applicable provisions. Where necessary, the bureau concerned had to make new law or amend existing laws or adjust the relevant policy to ensure compliance with the international treaty/convention; and
- (g) EDB was the policy bureau responsible for addressing the concerns raised by GT about the training needs of NCS children with SEN. The HKSAR Government held the view that irrespective of race, mental and physical condition, children should be given equal

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opportunity to receive education in schools. In public sector schools, resources were given to render support to children with SEN, including NCS children with SEN. If there was any justifiable case, the English Schools Foundation could discuss with EDB for further provisions in the learning support classes in its mainstream schools.

Discussion

34. Mr WONG Yuk-man criticized the Administration for being perfunctory in preparing the HKSAR Report, which only gave a superficial account of human right policies and directions without touching on matters infringing human rights in Hong Kong. He expressed concern that nine incumbent and former LegCo Members who had participated in a radio programme as guests had been prosecuted under the Telecommunications Ordinance for involving in unauthorized broadcasting. He queried the basis for the Government to institute legal proceedings when the Magistrate had ruled that the relevant provision of the Ordinance was unconstitutional. Mr WONG expressed dissatisfaction that the HKSAR Report had not covered that incident, or incidents of police abuses, such as conducting unnecessary strip searches which infringed human rights.

35. Mr LEUNG Kwok-hung shared the view that the HKSAR Report was a propaganda brochure for tourists. He criticized that the Report had not covered infringements of human rights such as police abuses, stalling democratic development, implementing laws that were inconsistent with BL and HKBOR, etc.

36. Ms Emily LAU considered the HKSAR Report unacceptable. She said that although the HKSAR Report had to be short, the Administration could have reflected the human rights problems in Hong Kong concisely. She was disappointed that the HKSAR Report had not covered the following issues –

- (a) CE had retracted his word about taking forward constitutional development by deferring the consultation on the two electoral methods for 2012;
- (b) the Government had not pursued the implementation of dual universal suffrage in 2012 for the people of Hong Kong and it had not been stated unequivocally in the HKSAR Report that universal suffrage for the LegCo election would be implemented in 2020;
- (c) the UN Committee on the Elimination of Discrimination against Women had expressed concern that the electoral system of functional constituencies (FC) might constitute indirect discrimination against women resulting in unequal participation of women in political life; and

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- (d) the existing mechanism to handle complaints against police officers was defective as all complaints against the police would be referred to and investigated by the Complaints against Police Office, which was a branch of the Police Force.

37. USCMA responded that –

- (a) on constitutional development, the HKSAR Report had given an account of the Decision of the Standing Committee of the National People's Congress (NPCSC) made on 29 December 2007. If UNHRC wished to know about the latest development, the Administration was more than willing to give supplementary information; and
- (b) on women's rights, the Administration had considered the concluding comments made by the UN treaty bodies, and did not find any plausible argument that the electoral system of FC had been structurally unfair to women.

38. In response to members' comments on police abuses, Principal Assistant Secretary for Security (PAS(S)) said that –

- (a) for the Police's undercover operations against vice activities, strict internal guidelines were in place governing such operations, with which police officers engaged in such operations were required to strictly comply; and
- (b) taking into account comments of LegCo Members, the Police had revised their procedures and introduced new guidelines on searching of detained persons which had taken effect from 1 July 2008. The new procedures required that searches on detainees (in particular searches involving removal of clothing) should not be conducted arbitrarily and the reasons for and scope of searches had to be properly documented. The Police Force would conduct a second stage review to ascertain whether additional measures were warranted to further improve the handling of searches of detainees and would report the outcome of the review to the Subcommittee on Police's Handling of Sex Workers and Searches on Detainees under the LegCo Panel on Security in due course.

39. Dr PAN Pey-chyou said that human right was essential and precious, but the price for it was high. He noted that while some non-government organizations (NGOs) had criticized the human rights situation in Hong Kong, opinion surveys conducted in the past 10 years had indicated that the public did not perceive a deterioration in the human rights situation in Hong Kong. In fact, progress had been made in a number of areas including privacy, equal

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opportunities, freedom of the press and speech, etc. In his view, the human rights situation in Hong Kong was close to that of western countries.

40. Mr WONG Yuk-man said that while protection for human rights had improved as compared with the 1960's and 1970's, the following examples indicated that human rights protection had been deteriorating after the handover in 1997 –

- (a) the abolition of the two municipal councils whose members were returned by direct election;
- (b) the NPCSC Decisions on 26 April 2004 and 29 December 2007 to maintain the 50:50 ratio between Members returned by GCs and FCs respectively not in accord with the principle of "gradual and orderly progress" in constitutional development;
- (c) the retention of appointed membership in District Councils; and
- (d) the majority of owners of media organizations in Hong Kong being pro-establishment and exercising self-censorship in conducting their business.

41. Ms Cyd HO concurred with Mr WONG adding that –

- (a) there was insufficient monitoring over law enforcement agencies carrying out covert operations under the Interception of Communications and Surveillance Ordinance (Cap. 589);
- (b) the Public Order Ordinance (Cap. 245) had been amended to further restrict the freedom of assembly;
- (c) the problem of police abuses had become more prevalent; and
- (d) Ms Anna WU, the former Chairperson of the Equal Opportunities' Commission, had not been re-appointed because of her taking legal action to challenge against the Secondary School Places Allocation System adopted by the then Education Department.

42. Ms Cyd HO further pointed out that as the HKSAR Report had failed to report the actual human rights situation, it had defeated the purpose of having a meaningful dialogue with other Member States at the UN hearing. She asked about the criteria in determining the contents of the HKSAR Report.

43. USCMA explained that UNHRC required that a report on UPR should cover four to five key areas. In this connection, the HKSAR Report provided background information on the legal and constitutional framework within which human rights were protected, applicable human rights treaties, relevant local

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legislations and their progress (such as the enactment of Race Discrimination Ordinance), as well as several areas of public concern (such as constitutional development, the political appointment system) and some issues previously raised by UN treaty bodies.

44. Ms Emily LAU said that the consultation document inviting views on the HKSAR Report was issued to LegCo on 2 September 2008 and the consultation ended on 13 September 2008. As the majority of Members were heavily involved in the 2008 LegCo election at that time, neither the public nor Members were given sufficient time to give views on the consultation document. She queried the validity of the outcome of the consultation exercise.

45. Mr LEE Wing-tat held the view that the consultation exercise on the contents of the HKSAR Report, which lasted two weeks only, was a sham. He asked whether publicity had been carried out to inform the public about the consultation. He also requested the Administration to provide a chronology of the HKSAR Government's communications with the Mainland authorities on the submission of the HKSAR Report. Echoing Mr LEE's view, Ms Cyd HO said that the information would help improve future arrangements for conducting the consultation exercise.

46. USCMA responded that the HKSAR Government had issued the proposed outline of the report with the background and objectives of the review to consult the public. The document was sent to a broad spectrum of the community, including LegCo, relevant NGOs, members of Human Rights Forum and Ethnic Minorities Forum, etc, and was distributed through the district offices and on the Internet. The Administration had also issued a press release setting out the proposed outline of the report and informed the media about the work schedule. USCMA further explained that the HKSAR Government had made the best endeavour to compile the HKSAR Report within the required timeframe, and given that that was the first time for China to submit its report under the new UPR mechanism, the Administration would learn from the experience and improve the relevant arrangements in future. USCMA added that it was inappropriate for the Government to disclose details of internal discussion within the Government and its communication with the Mainland authorities.

47. Ms Emily LAU said that the Administration should have included in the HKSAR Report a progress report listing out the follow-up actions taken in response to the observations and recommendations made by various UN treaty bodies over the years. Echoing Ms LAU's view, Mr Albert HO urged the Administration to prepare such a report and release it to the public before the hearing on 9 February 2009.

48. Mr Ronny TONG said that the HKSAR Government should be shameful of its indifference towards the implementation of various human right treaties. He pointed out that different UN treaty bodies had reprimanded the HKSAR

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Government for inadequate protection of human rights on various fronts. However, the reports submitted to UN were often silent on the deficiencies and measures taken to address the concerns raised by the relevant UN treaty bodies. He cited the example that the UN Human Rights Committee had clearly indicated that it was unacceptable for HKSAR to continue the reservation of its right not to apply Article 25(b) of ICCPR.

49. USCMA responded that –

- (a) according to his recollection, the HKSAR Government had never been reprimanded by any UN treaty bodies for infringing human rights. These bodies had noted that the HKSAR Government had implemented measures to protect human rights, and had commented on the improvement made by the HKSAR Government in certain areas, while making recommendations in their concluding observations for HKSAR in some other areas;
- (b) in response to these recommendations, relevant government bureaux and departments had discussed how to follow up the recommendations and the HKSAR Government had reported the progress to UN accordingly. The Administration had also implemented some of the recommendations made by treaty bodies. For instance, the Race Discrimination Ordinance (Cap. 602) was enacted in July 2008 which reflected the Government's commitment to combat racial discrimination;
- (c) prior to the UPR Working Group session, each Member State would receive a compilation of the recommendations made in the concluding observations of treaty bodies in respect of HKSAR to facilitate review and examination. In the coming three weeks and during the UPR hearing, the Administration would be prepared to provide supplementary information to UNHRC to address concerns raised by Members States, if any; and
- (d) upon ratification of ICCPR in 1976, a reservation had been made reserving the right not to apply Article 25(b) to Hong Kong. After the establishment of HKSAR, in accordance with the CPG's notification to UN Secretary-General in June 1997 and Article 39 of the Basic Law, that reservation had continued to apply to HKSAR.

50. Referring to the Administration's responses, Mr LAW Yuk-kai said that –

- (a) UNHRC had notified HKHRM six months in advance to compile a submission for UPR but the Administration did not release the consultation document until early September 2008;

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- (b) at a previous hearing on the HKSAR Report submitted under ICCPR, the Chairman of UN Human Rights Committee had rebutted the explanation given by representatives of the HKSAR Government for the reservation against Article 25(b) of ICCPR as "shameless". Recently, the UN Committee on Elimination of Racial Discrimination (CERD) had called for more information and improvements on the Race Discrimination Bill. As the HKSAR Government had failed to do so, CERD had written to CPG expressing "regret" that its request had not been acceded to; and
- (c) the human rights situation in HKSAR had deteriorated since the handover in 1997. For example, according to a survey on press freedom commissioned by the Hong Kong Journalists Association, almost 60% of journalists considered that HKSAR enjoyed less press freedom when compared to 1 July 1997. Another example was EAC, under the undue influence of the Administration, had not introduced more stringent measures to regulate the conduct of exit polls to ensure fairness in an election.

51. USCMA reiterated that he did not recall any treaty bodies having ever reprimanded the HKSAR Government on human rights issues, but he would ascertain with colleagues on the point raised by Mr LAW after the meeting.

52. In response to members, USCMA said that the China Report, the report of UN which compiled information contained in the reports of treaty bodies, and a summary of stakeholders information were available on the UN website. He would provide the relevant link to members after the meeting.

(Post-meeting note: The information was issued to members vide LC Paper No. CB(2)716/08-09 on 20 January 2009.)

53. The meeting ended at 5:21 pm.

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