

**立法會**  
**Legislative Council**

Ref: CB1/PL/HG

**Panel on Housing**

**Disposal of Hunghom Peninsula  
Private Sector Participation Scheme Flats**

**Background Brief**

**(Updated version as at 11 April 2005)**

**Purpose**

This paper provides background to the disposal of the Hunghom Peninsula Private Sector Participation Scheme (PSPS) flats and summarized the views expressed by members on the subject.

**Hunghom Peninsula PSPS project**

2. PSPS is one form of subsidized ownership housing introduced by the Government in 1977 to supplement the Home Ownership Scheme (HOS) by inviting the participation of private developers. Unlike HOS flats which are owned by the Housing Authority (HA), PSPS developments are owned by the developer. Under PSPS, private developers are invited to tender for housing sites on which they are required to build flats conforming to certain specifications stipulated by the Government. Like other Government land sales, the land title of a PSPS site is vested in the developer. The developer holds legal title to the land lot, owns the residential units, the car parking spaces and commercial facilities it builds under the same lease. The obligations of the contracting parties are stipulated in the Conditions of Sale for the housing site. Under the Conditions of Sale for PSPS projects, HA is named to nominate eligible purchasers to purchase the flats from the developer concerned within a specified period. In the event that flats are unsold at the end of the specified period, HA is obliged to purchase the flats at the guaranteed purchase price.

3. Hunghom Peninsula comprises 2 470 flats, 494 car parking spaces and shopping facilities. The land lease was granted to the developer at a tender price of \$583 million on 24 September 1999. The flats were completed in November 2002. The total saleable floor area was 123 500 square meter. The guaranteed purchase price was \$15,500 per square meter and the total guaranteed purchase prices for all the 2 470 residential units was about \$1,914 million. Under the Land Grant, HA should nominate eligible home purchasers to purchase the flats within a period of 20 months from the date of the Consent to Sell, which was issued in November 2002.

4. In November 2002, the Government decided to cease indefinitely the production and sale of HOS/PSPS flats from 2003 onwards to address the imbalance between supply and demand of private residential flats, and to restore the confidence of the public and investors in the property market. Detailed information on the Government's decision is set out in the updated background brief entitled "Disposal of surplus Home Ownership and Private Sector Participation Scheme flats" in LC Paper No. CB(1) 1218/04-05(03). The Hunghom Peninsula is one of the two PSPS projects that need to be disposed of pursuant to the decision to cease the production and sale of HOS and PSPS flats.

### **Disposal options**

5. Following the decision to halt the sale and production of HOS and PSPS flats starting from 2003 onwards, the Government explored possible options to dispose of the Hunghom Peninsula PSPS flats. According to the Administration, it had explored several options. One of the options was for HA to purchase all the flats from the developer and then to dispose of them as HOS flats. This option was discarded as the Administration considered that it ran contrary to the policy direction and would adversely affect the property market. Besides, it was not possible to dispose and change the use of those flats without first obtaining the developer's agreement as the developer held legal title of the land.

6. Another option explored by the Administration was for HA to purchase the Hunghom Peninsula PSPS flats for conversion into public rental housing (PRH) flats. This option was not adopted on the ground that the flats were considered not suitable for conversion because they were excessive in size and of a provision standard higher than the existing PRH units.

7. The Administration had also examined the possibility of HA nominating a single purchaser to take up all the flats from the developer so that the single purchaser can dispose of the flats in the private market. The legal advice from the Government solicitors and external Senior Counsel was that this could be considered as providing housing to the general public and HA could be challenged for acting outside its authority and powers under the Housing Ordinance (Cap. 273). This option was also outside the terms of the Conditions of Sale and might be challenged by the developer.

## **Negotiation with the developer on the disposal arrangement**

8. The Administration started negotiation with the developer in January 2003 to allow the developer to sell the flats in the open market, subject to payment of a lease modification premium. Owing to the huge differences between the positions of the two parties on the premium, negotiations broke off in March 2003. In July 2003, the developer initiated litigation against the Administration and HA for breaches of the Land Grant and claimed for damages.

9. Having considered the various policy, legal and financial considerations and the various options, the Administration decided to re-open negotiation with the developer by way of mediation. The negotiation team comprised representatives from the Lands Department, Housing Department and Department of Justice. The mediation was concluded in December 2003 with the modification premium agreed before an independent mediator accredited by the Hong Kong International Arbitration Centre.

10. On 9 February 2004, the Government announced that it had reached an agreement with the developer, First Star Development Limited, to modify the Conditions of Sale to allow the 2 470 flats to be sold in the open market. The developer agreed to give up its right to receive the payment of a guaranteed purchase price at \$1,914 million from HA and paid a premium of \$864 million to the Government for the lease modification. The Conditions of Sale restrict the development on the lot to a residential gross floor area of 144 300 square metres and any redevelopment would have to be in accordance with the Master Layout Plans approved for development of the lot as a PSPS development.

## **Members' concerns**

11. Following the public announcement of the outcome of the negotiation, the Panel on Housing, together with the Panel on Planning, Lands and Works, held two special joint meetings to discuss the subject. Many members expressed grave concern about the agreement reached by the Administration with the developer of the Hunghom Peninsula PSPS project concerning the disposal of flats. The major concerns of members are as follows:

- (a) It was inappropriate for the Administration to negotiate with the developer behind closed doors. The flats could be sold through open tender or auction so that other developers could have a chance to participate. The approach taken by the Government benefited only the developer concerned at the expense of public interests;
- (b) The agreement to modify the relevant Conditions of Sale to allow the 2 470 flats to be sold in the open market was against the

Administration's stated housing policy of ceasing the production and sale of HOS and PSPS flats;

- (c) The agreed premium of \$864 million was pathetically low, taking into account the fact that the property market was picking up; and
- (d) The agreement did not settle the issue once and for all as there was still pending litigation for damages filed by the developer.

12. To address members' query about the basis for accepting the agreed premium and in response to members' request, the Administration provided to the Panels the valuation report compiled by the Lands Department for the negotiation and mediation. The Administration also secured the developer's consent to disclose the pertinent information about the mediation, including the developer's estimates of the premium for the lease modification. The details of the discussions on the premium provided by the Administration are in **Appendix I**.

13. Since some members were unconvinced of the approach taken by the Government to settle the issue by means of negotiation and mediation, at members' request, the Administration made available on a confidential basis the legal advice on the disposal options for the Hunghom Peninsula PSPS project for members' inspection.

### **Latest development**

14. On 29 November 2004, the developer announced plans to demolish and redevelop the Hunghom Peninsula PSPS project. The announcement aroused much public concern about the possible implications of the plans, especially those on the environment. The Panel on Housing held a meeting on 6 December 2004 to discuss the plans, the Secretary for Housing, Planning and Lands (SHPL) made a number of clarifications in his opening statement (**Appendix II**). In particular, he clarified that the Administration had not received any application from the developer concerning redevelopment or lease modification.

15. Notwithstanding SHPL's clarifications, members raised the following concerns at the meeting -

- (a) Whether the Administration was aware that the developer might redevelop the Hunghom Peninsula site at the time of negotiation. If so, why the Administration had not included any condition in the agreement for lease modification to restrict the developer to redevelop Hunghom Peninsula;
- (b) Whether the Administration could and would prevent the developer from demolishing the Hunghom Peninsula flats. In particular,

whether clause 11(a) of the Special Conditions of the relevant land lease and clause 7 of the General Conditions of the land lease could, as the Administration claimed, effectively prevent redevelopment of the Hunghom Peninsula site even after the deletion of certain conditions from the original land lease, such as specification of architectural design of the flats and number and sizes of units, in the lease modification. In a member's view, the deletion seemed to facilitate the developer to redevelop the site; and

- (c) Whether the legal basis upon which the Administration could require the payment of additional premium for redevelopment of the Hunghom Peninsula site was sound enough. If so, whether the requirement could serve any purpose in preventing demolition and redevelopment.

16. To address the concerns of members and the public, the Administration was requested to make public all information about the disposal of the Hunghom Peninsula flats, in particular the Administration's correspondence with the developer, as well as papers and minutes of internal meetings at which the disposal was discussed. This would enable members to ascertain whether the developer at the time of negotiation had indicated any wish to demolish the flats and whether the Administration had considered the environmental implications of such a move. SHPL agreed to consider the above request subject to the guidelines and principles under the Code on Access to Information.

17. In order to seek answers to the many questions over the circumstances and the terms of the sale of Hunghom Peninsula PSPS project, the Panel passed a motion to recommend the setting up of a select committee. The wording of the motion is in **Appendix III**. The Panel agreed that the proposal for the setting up of a select committee should be put to the House Committee for consideration.

18. In its letter dated 9 December 2004, the Administration confirmed that it would provide the information requested in paragraph 16 above subject to the guidelines and principles under the Code on Access to Information. After consulting the majority of Panel members, the Chairman made a short verbal report at the House Committee meeting on 10 December 2004 that the Panel would decide the next course of action after receipt of further information from the Administration.. The requested information was issued to members in batches vide LC Paper Nos. CB(1) 488, 459, 469, 513, 522, 587, 636 and 651/04-05.

19. On 10 December 2004, the developer announced that it would not proceed with the plans to demolish Hunghom Peninsula flats. As there remained the question of how the Government should deal with the lease modification application for Hunghom Peninsula, a question in this regard was raised at the Council meeting on 23 February 2005. In its reply, the Administration reported that the Government had so far not received any application for lease modification from the developer.

20. A chronology of relevant events and the relevant papers with their hyperlinks are in **Appendices IV and V** respectively.

Council Business Division 1  
Legislative Council Secretariat  
11 April 2005

## Appendix I

### **Details of the discussions on the premium for lease modification provided by the Administration**

The mediation was conducted and concluded between 8 December and 23 December 2003 before an independent mediator who is accredited by the Hong Kong International Arbitration Centre. During the course of mediation, both parties carefully examined each other's figures in the presence of the mediator. There were differences on the estimated sale price of the flats after upgrading works, developer's profit/bulk discount, marketing cost, upgrading cost and period for sale of flats after completion of upgrading works. Our position was vigorously challenged by the developer. In particular, the developer argued that a greater profit/bulk discount was appropriate to reflect the substantial number of flats, and the developer adopted a comparatively lower estimated sale price of the flats.

2. After several rounds of exchange of details, we proposed, as a basis for settlement and bearing in mind the inherent difficulties in valuing 2 470 upgraded PSPS flats as one lot, a premium of \$1,310 million based on an estimated sale price of \$38,000/m<sup>2</sup> net (\$3,021/sq.ft gross) for the flats and a 15% bulk discount/profit. The developer rejected our proposal and counter-offered a modification premium of \$864 million, which we understood, was based on, among other things, a selling price of \$35,218/m<sup>2</sup> net (\$2,800/sq.ft gross) and a profit margin of 20%. Despite further intensive discussions between the two sides, the developer declined to move from this position.

**The opening statement made by  
the Secretary for Housing, Planning and Lands  
at the meeting of the Panel on Housing on  
6 December 2004**

**房屋及規劃地政局局長  
出席立法會房屋事務委員會的**

**發言全文**

主席、各位議員：

在 2002 年十一月，政府鑑於當時疲弱的樓市和房屋供求嚴重失衡的情況，為回應社會的訴求，發表了房屋政策聲明，為政府的房屋政策重新定位，同時提出九項措施穩定樓市，其中兩項措施為停建及停售居者有其屋計劃，以及終止私人機構參建居屋計劃。及後房屋委員會作出配合，於 2003 年決定停止興建及出售居屋單位，並且終止私人機構參建居屋計劃。同時，在 2003 年年底，因應政府的深化房屋政策的聲明，通過於 2006 年年底前不會以資助形式推售回購或未能發售的居屋單位。就有關課題，政府已先後十次向立法會房屋事務委員會匯報。今天我想就處理有關“居屋及私人參建居屋計劃剩餘單位”這課題向大家強調以下四點：

2. 第一，自房屋政策聲明公布以來，樓市在過去兩年逐步穩定發展，根據差餉及物業估價署以及香港金融管理局資料顯示，自 2002 年 11 月至今，樓價回升了 28%，整體房屋資產回升了 5540 億元，負資產的數目由 78,000 個下降至 25,000 個，這顯示重新定位的房屋政策逐見成效，得到廣大市民的認同，符合社會整體利益。政府在為房屋政策重新定位的同時，已清楚指出要處理如何善後剩餘居屋及兩個剩餘的私人參建居屋計劃，即紅灣半島及嘉峰臺。

3. 第二，政府在處理紅灣半島及嘉峰臺時必須充份考慮到對當時疲弱及供應嚴重失衡的樓市的影響減到最低，並要維持房屋政策的連貫性及公信力。在處理紅灣半島期間正值樓市低迷，政府和房屋委員會經考慮對樓市的影響，並顧及各項與房屋政策、法律和財政相關的因素後，認為最平衡公眾利益的處理方法，就是與發展商進行修改土地契約，容許發展商在繳付經磋商協定的修訂契約補價後，可將有關物業在公開市場發售。政府與發展商最終就紅灣半島的修訂契約達成協議。我們亦先後於今年二月及三月向立法會作詳細匯報。

4. 第三，政府在處理嘉峰臺時，亦須顧及紅灣半島相似的考慮因素。我們在諮詢房屋委員會及立法會的意見後，沿用了與處理紅灣半島相同的方法來處理嘉峰臺，即容許發展商在繳付經磋商協定的修訂契約補價後，可將有關物業在公開市場發售。然而，我們最終無法與發展商達成協議。其後，房屋委員會決定根據賣地章程訂明的保證售價向發展商購回全部單位。儘管私人物業市場近月已漸趨穩定，但礙於市場仍存在一定數量的貨尾尚待消化。為免影響復蘇不久的樓市，房屋委員會轄下的資助房屋小組委員會最近決定將嘉峰臺留待於 2007 年才透過居屋計劃發售，並將於 2006 年下半年就有關細節進行研究。

5. 第四，至於從未發售的居屋發展項目，我們已處理了 7,200 個包括把 4,300 個單位售予政府用作紀律部隊宿舍，2,900 個改作出租公屋。我們會繼續研究處理餘下 3,000 個剩餘居屋單位的可行方案。

6. 最後，發展商近日宣布拆卸紅灣半島的計劃，再次引起社會關注。政府到目前為止仍未收到發展商的重建計劃或修訂地契申請，但會密切注視有關發展，並充分明白市民大眾及環保團體關注拆卸和重建工程對環境所帶來的影響。回顧年初，政府與發展商進行修改土地契約的目的是容許發展商可將其單位在市場作公開發售。現時當市民信心回穩和置業意慾增加之際，發展商沒有把這批現貨單位推出市場發售給市民，反而將簇新的樓宇拆卸，希望發展商會因應市民表達的意見作出正面回應。

7. 就李永達議員 12 月 3 日致函立法會秘書處，提問有關發展商如打算重建紅灣半島而涉及更改發展大綱及補地價的政策，正如我們以往曾向外界解釋，根據有關之土地契約，若該地段重建時，發展商在未獲得到地政總署署長批准前，不得興建總綱發展藍圖或已獲批核的景觀設計計劃上沒有載列的任何建築物或搭建物。如重建項目與總綱發展藍圖和已獲批核的景觀設計計劃不一致，發展商須向地政總署署長申請批准修訂土地契約。地政總署曾去信發展商的代表律師，提醒發展商上述規定。

8. 鑒於發展商近日公佈有意拆卸紅灣半島作重建後社會反響和部份人士的訴求，我們再次確定早前所得的初步法律意見，我們有兩個主要論據—

(1) 契約特別條件第(11)(a)條規定，該地段不得進行任何與批地條件、總綱發展藍圖及已獲批核的景觀設計計劃不一致的發展項目或重建項目。

- (2) 契約一般條件第 7 條規定，買家須根據核准建築圖則，保存所有樓宇，而不得對樓宇進行任何更改或修改工程。該條款訂明，有關地段的樓宇如果拆卸重建，必須符合以下兩個的其中一個條件。第一，新的樓宇必須是與現有的建築物的同類型樓宇而重建後的建築樓面面積不少於現有的建築樓面面積；或者第二，新樓宇的類型及價值的建議須先得地政總署署長的批准。換而言之，如重建項目中的樓宇，與現有樓宇並不屬於同一類型，根據一般條件第 7(b) 條規定，買家須向地政總署署長申請批准。

9. 換句話說，地政總署署長作為批租人(即合約的另一方)有權決定是否同意批准修訂地契的申請。我留意昨天報導有立法會議員表示，政府與紅灣半島發展商簽署補價條文時，刪除原本地契中的多項條文，例如刪除大廈外牆及大堂用料、樓宇單位數目及面積大小等的規定，顯示政府清楚發展商意圖重建屋苑。我鄭重聲明，有關說法嚴重混淆視聽。我看不出這項指控的理據何在。在年初時政府與發展商就修訂契約的協議，目的是讓發展商在補價後將其單位推出公開市場發售，以及容許發展商在與總綱發展藍圖及已獲批核的景觀設計計劃一致的大前提下有適量的彈性，將現有單位質素和內部間隔，以及一些設施提升，以便在私人市場出售。刪除這些條文的用意，是容許發展商將這些私人參建居屋作有限度的改裝，而非容許重建。

10. 發展商若要拆卸，在未得到政府的批准，只能根據現有的總綱發展藍圖重新建造一次。我已請地政總署和律政司的同事就上述條款進一步仔細研究有關署長的權力範圍，以考慮如何處理發展商日後呈交的重建申請。

11. 另一方面，除上述考慮外，地政總署會按照土地契約的條款來評定有關計劃是否涉及土地契約和相關的總綱發展藍圖和景觀設計計劃的改動，如須作任何改動會否批准，以及如果批准申請的話，將按照一貫的土地政策來考慮土地價值是否有所增加，如有的話，則會按照所增加的價值收取補地價。這是一向行之已久的做法。

12. 多謝大家。

## **Appendix III**

### **Motion on “Hunghom Peninsula” passed by the Panel on Housing at the meeting on 6 December 2004**

(Translation)

“That this Panel recommends that the Legislative Council set up a select committee to inquire into the Government’s sale of Hunghom Peninsula.”

## Appendix IV

### Chronology of events relating to the disposal of Hunghom Peninsula PSPS flats

Date	Event
24 September 1999	Land lease was granted to the developer at a tender price of \$583 million
22 October 1999	The developer commenced construction
3 September 2001	The Chief Secretary for Administration made statement on housing and announced moratorium of all sales of HOS and PSPS flats until end of June 2002
6 August 2002	Construction completed
13 November 2002	The Secretary for Housing, Planning and Lands gave a statement on housing policy at the Council Meeting and announced the cessation of the production and sale of HOS and PSPS flats
15 November 2002	The Panel on Housing discussed the statement on housing policy
20 November 2002	The Lands Department issued the Consent to Sell to the developer and the 20-month prescribed period for the HA to nominate purchasers for the completed PSPS flats commenced
14 January 2003	The Panel on Housing received a policy briefing from the Secretary for Housing, Planning and Lands
18 March 2003	The Panel on Housing discussed the disposal of surplus HOS/PSPS flats
January to March 2003	The Administration carried out initial negotiation with the developer
6 March 2003	HA's Strategic Policy Committee approved the disposal arrangement of the surplus HOS/PSPS flats and was informed that negotiation with the developer was underway

Date	Event
End March 2003	Negotiation with the developer halted since both sides were unable to reach any agreement upon encountering difficulties
25 July 2003	The developer initiated litigation by issuing a Writ of Summons
August to October 2003	The Administration revisited various possible disposal options and decided that further negotiation with the developer through mediation should proceed
9 October 2003	Hon LEUNG Yiu-chung raised a question at the Council meeting concerning problems arising from cessation of the production and sale of HOS and PSPS flats. The Council was informed that the developer had filed a writ against the Government and the HA
3 November 2003	The Panel on Housing discussed the updated progress of the disposal of surplus HOS/PSPS flats
8 to 23 December 2003	Lands Department, Housing Department and Department of Justice conducted mediation with the developer with the facilitation of an independent mediator accredited by the Hong Kong International Arbitration Centre
26 January 2004	The Administration formalized preliminary agreement on lease modification with the developer
February 2004	Completion of lease modification process
17 February 2004	The Panel on Housing and the Panel on Planning, Lands and Works discussed the disposal of Hunghom Peninsula PSPS flats
8 March 2004	The Panel on Housing and the Panel on Planning, Lands and Works further discussed the disposal of Hunghom Peninsula PSPS flats
17 November 2004	Hon CHOY So-yuk raised a question at the Council meeting concerning disposal of the Hunghom Peninsula and the Kingsford Terrace PSPS flats

<b>Date</b>	<b>Event</b>
29 November 2004	The developer announced plans to demolish and redevelop the flats of the Hunghom Peninsula PSPS project
6 December 2004	The Panel on Housing discussed the disposal of Hunghom Peninsula PSPS flats, and passed a motion to recommend the setting up of a select committee to inquire into the Government's sale of Hunghom Peninsula
9 December 2004	The Administration confirmed vide its letter dated 9 December 2004 that it would provide the information requested by members subject to the guidelines and principles under the Code on Access to Information
10 December 2004	The Chairman made a short verbal report at the House Committee meeting that the Panel would decide the next course of action after receipt of further information from the Administration
10 December 2004	The developer announced that it would scrap plans to demolish Hunghom Peninsula flats
23 February 2005	Hon Ronny TONG Ka-wah raised a question at the Council meeting concerning Government's consideration of the lease modification application for the Hunghom Peninsula. The Council was informed that Government had so far not received any application for lease modification from the developer for carrying out redevelopment

## Disposal of Hunghom Peninsula Private Sector Participation Scheme Flats

## List of relevant papers

Council/Committee	Date of meeting	Paper
Housing Panel	10 September 2001	<p>A Statement on Housing  <a href="http://www.legco.gov.hk/yr00-01/english/panels/hg/papers/cs-e.pdf">http://www.legco.gov.hk/yr00-01/english/panels/hg/papers/cs-e.pdf</a></p> <p>Appendix II to LC Paper No. CB(1) 251/01-02  <a href="http://www.legco.gov.hk/yr00-01/chinese/panels/hg/papers/251ce-a.pdf">http://www.legco.gov.hk/yr00-01/chinese/panels/hg/papers/251ce-a.pdf</a></p> <p>LC Paper No. CB(1) 1983/00-01(01)  <a href="http://www.legco.gov.hk/yr00-01/english/panels/hg/papers/a1983e01.pdf">http://www.legco.gov.hk/yr00-01/english/panels/hg/papers/a1983e01.pdf</a></p> <p>Minutes  <a href="http://www.legco.gov.hk/yr00-01/english/panels/hg/minutes/hg010910.pdf">http://www.legco.gov.hk/yr00-01/english/panels/hg/minutes/hg010910.pdf</a></p>
Council meeting	13 November 2002	<p>Hansard  <a href="http://www.legco.gov.hk/yr02-03/english/counmtg/hansard/cm1113ti-translate-e.pdf">http://www.legco.gov.hk/yr02-03/english/counmtg/hansard/cm1113ti-translate-e.pdf</a></p>
Housing Panel and Planning, Lands and Works Panel (PLW Panel)	15 November 2002	<p>LC Paper No. CB(1) 301/02-03(01)  <a href="http://www.legco.gov.hk/yr02-03/english/panels/hg/papers/hgplw1115cb1-301-1-e.pdf">http://www.legco.gov.hk/yr02-03/english/panels/hg/papers/hgplw1115cb1-301-1-e.pdf</a></p> <p>Minutes  <a href="http://www.legco.gov.hk/yr02-03/english/panels/hg/minutes/hgpl1115.pdf">http://www.legco.gov.hk/yr02-03/english/panels/hg/minutes/hgpl1115.pdf</a></p>

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Housing Panel	14 January 2003	LC Paper No. CB(1) 704/02-03(01) ( <a href="http://www.legco.gov.hk/yr02-03/english/panels/hg/papers/hg0114cb1-704-1-e.pdf">http://www.legco.gov.hk/yr02-03/english/panels/hg/papers/hg0114cb1-704-1-e.pdf</a> )  Minutes ( <a href="http://www.legco.gov.hk/yr02-03/english/panels/hg/minutes/hg030114.pdf">http://www.legco.gov.hk/yr02-03/english/panels/hg/minutes/hg030114.pdf</a> )
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Housing Panel	3 November 2003	LC Paper No. CB(1) 190/03-04(03) ( <a href="http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg1103cb1-190-3e.pdf">http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg1103cb1-190-3e.pdf</a> )  Minutes ( <a href="http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg031103.pdf">http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg031103.pdf</a> )
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