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香港特別行政區政府
入境事務處

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Immigration Department
The Government of the Hong Kong
Special Administrative Region

29 May 2012

Mrs Sharon Tong
Principal Council Secretary 2
Council Business Division
Legislative Council Secretariat
Legislative Council Complex
Central
Hong Kong

Dear Mrs Tong,

Immigration (Amendment) Bill 2011

Regarding issues raised by Members at the Meeting of the Bills Committee on 28 May 2012, our response is set out as follows:

Prosecution Figures

2. As at 30 April 2012, among the 1,717 determined cases, a total of 100 (5.8%) claimants were prosecuted for overstaying or illegal remaining after their claims were finally determined. As for the rest 1,617 determined cases, the situation is tabled below:

No. of cases with torture claim lodged after prosecution for overstaying or illegal remaining	83
No. of cases with no prosecution for overstaying or illegal remaining	1,534

Prosecution Policy

3. No person will be prosecuted for having lodged a torture claim in Hong Kong. If a claimant committed an immigration offence relating to his claim (e.g. overstaying, illegal remaining, etc.), the decision to prosecute the claimant will be deferred until the claim is finally determined. In considering whether to prosecute or not, apart from the sufficiency of evidence to prove all the ingredients of an offence, the Immigration Department (ImmD) will also consider other factors such as surrounding circumstances of the offence, seriousness of the offence, practical effects of the offence, any extenuating circumstances and whether prosecution is in the public interest, etc. ImmD will consider each and every case individually and consult the Secretary for Justice for legal advice when necessary.

Yours sincerely,



(LEUNG Kwok-hung)
for Director of Immigration

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