

立法會

Legislative Council

LC Paper No. CB(2)135/11-12
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by the Administration)

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Panel on Security

**Minutes of special meeting
held on Saturday, 19 March 2011, at 9:30 am
in the Chamber of the Legislative Council Building**

- Members present** :
- Hon James TO Kun-sun (Chairman)
 - Hon LAU Kong-wah, JP (Deputy Chairman)
 - Dr Hon Margaret NG
 - Dr Hon Philip WONG Yu-hong, GBS
 - Hon Emily LAU Wai-hing, JP
 - Hon Abraham SHEK Lai-him, SBS, JP
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon Andrew LEUNG Kwan-yuen, GBS, JP
 - Hon WONG Kwok-kin, BBS
 - Hon IP Kwok-him, GBS, JP
 - Dr Hon PAN Pey-chyou
 - Hon Paul TSE Wai-chun
 - Hon LEUNG Kwok-hung
 - Hon WONG Yuk-man
- Members attending** :
- Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Hon Miriam LAU Kin-yea, GBS, JP
 - Hon TAM Yiu-chung, GBS, JP
 - Hon KAM Nai-wai, MH
- Members absent** :
- Hon Albert HO Chun-yan
 - Hon CHEUNG Man-kwong
 - Hon WONG Yung-kan, SBS, JP
 - Hon Timothy FOK Tsun-ting, GBS, JP
 - Hon CHIM Pui-chung
 - Hon Cyd HO Sau-lan
 - Dr Hon LAM Tai-fai, BBS, JP
 - Hon CHAN Hak-kan

**Public Officers : Item I
attending**

The Administration

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Miss Shirley YUNG Pui-man
Deputy Secretary for Security

Professor Gabriel LEUNG, JP
Under Secretary for Food and Health

Miss Vivian LAU, JP
Deputy Secretary for the Environment

Dr TAM Lai-fan, JP
Deputy Director of Health

Mr CHENG Kit-man
Senior Physicist in Charge
Department of Health

Dr C C LAU
Cluster Services Director
(Service Development, HKE Cluster),
Hospital Authority

Dr Constance CHAN, JP
Controller, Centre for Food Safety
Food and Environmental Hygiene Department

Mr LEUNG Wing-mo
Assistant Director of the HK Observatory
(Radiation Monitoring & Assessment)
Hong Kong Observatory

Professor C F LEE
Member of the Chinese Academy of Engineering /
Chair Professor of Geotechnical Engineering,
The University of Hong Kong

Professor KUO Way
President of City University of Hong Kong /
Foreign Member, Chinese Academy of Engineering /
Member, US National Academy of Engineering /
Member, Academia Sinica in Taiwan

Item III

The Administration

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mr SO Chi-keung
Assistant Secretary for Security

Ms Linda LAM Mei-sau
Deputy Principal Government Counsel
(Mutual Legal Assistance)
Department of Justice

Mr LEUNG Po-tak
Chief Superintendent of Police
(Organized Crime & Triad Bureau)

Mr CHEUK Hau-yip
Senior Superintendent of Police
(Organized Crime & Triad Bureau)

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Miss Kitty CHENG
Senior Assistant Legal Adviser 1

Mr Bonny LOO
Assistant Legal Adviser 3

Mr Ian CHOW
Senior Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Government contingency measures and Outbound Travel Alert in relation to the recent nuclear plant incidents in Japan
(LC Paper Nos. CB(2)1152/10-11(06) and CB(2)1303/10-11(01))

Under Secretary for Security ("US for S") briefed Members on the government contingency measures in relation to the recent Fukushima Nuclear Power Station ("FNPS") incident in Japan ("the incident"). He informed Members that after the earthquake in Japan on 11 March 2011, the Administration had activated the Emergency Monitoring and Support Centre in the same afternoon to closely monitor the development of the incident on a 24-hour basis. The Japanese authorities, the Mainland authorities, and the Hong Kong Observatory ("HKO") had reported respectively that no abnormal radioactivity was detected within the territories of Tokyo, the Mainland and Hong Kong.

2. Regarding the assistance to Hong Kong residents in Japan, US for S informed Members that -

- (a) the Administration had, through various channels, urged Hong Kong residents to leave Japan or move to the southern regions of Japan. Health desks had been set up at the Narita Airport and Haneda Airport, and in a hotel in Shinjuku, Tokyo to provide assistance to Hong Kong residents in need. A team of 26 government officials had joined the 12 immigration officers who had been deployed to Japan earlier;
- (b) Hong Kong residents in Japan could also seek assistance through the Administration's hotline "1868" or GovHK internet homepage "Japan Earthquake - information for residents". New information would be constantly uploaded onto the homepage to keep Hong Kong residents informed of the latest situation. Additional flights from different cities of Japan to Hong Kong and connecting shuttles to the airports had been arranged;
- (c) after the Administration announced on the night of 17 March 2011 that there would be additional flights bringing Hong Kong residents back to Hong Kong, the Immigration Department ("ImmD") had received 697 enquiries and 512 cases of request for assistance, including four cases of losing contact with friends or families in Japan, 488 cases of seeking earlier return to Hong Kong, and 20 cases of request for information. Of those who wished to return to Hong Kong earlier, 441 had returned to Hong Kong;

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- (d) since 11 March 2011, ImmD had received a total of 6 570 enquires and 1 770 cases of request for assistance, including 474 cases of temporarily losing contact with friends or families in Japan. ImmD had managed to contact most of them and there were less than 20 cases requiring follow-up; and
- (e) As at 6:00 pm on 18 March 2011, the Customs and Excise Department ("C&ED") had taken samples from 52 consignments, comprising 299 batches of airborne goods and five containers from sea imported from Japan for the purpose of assessing radiation risks. All were confirmed to be radiation-free.

3. Professor C F LEE, Chair Professor of Geotechnical Engineering, University of Hong Kong briefed Members on the information and updates in relation to the incident with the aid of Powerpoint presentation.

4. Professor C F LEE explained that FNPS deployed boiling water reactors with a single cooling system. When FNPS was hit by the tsunami, its sea water cooling systems were disrupted resulting in overheating and explosion of the reactor cores. Leakage of radioactive materials followed. The incident was a "Loss-of-Coolant Accident". He added that the International Atomic Energy Agency ("IAEA") had been disseminating information about the latest development of the incident to its members.

5. Professor C F LEE informed members that the Daya Bay Nuclear Power Station ("DBNPS") had a much higher safety standard compared to that of FNPS -

- (a) DBNPS deployed advanced pressurized water reactors with two cooling systems. The reactor cores were protected by reinforced concrete structures; and
- (b) DBNPS was not located in an earthquake zone while Fukushima was located near the Circumpacific Seismic Belt where earthquakes were frequent. A tsunami was therefore highly unlikely in the vicinity of DBNPS.

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6. Professor KUO Way, President of City University of Hong Kong, informed Members that when Fukushima was hit by tsunami, reactor units 1, 2 and 3 at FNPS were in operation while reactor units 4, 5 and 6 had been shut down. Reactor units 5 and 6 were intact. There were various degrees of explosions in reactor units 1 to 4, which resulted in the release of radioactive materials, most of which were Iodine-131. The level of radioactivity had been decreasing at the site. The incident should have been caused by the tsunami and not by the earthquake. He considered that there was an urgent need to -

- (a) keep the temperature of reactor units 1 to 6 at a low level through cooling with water; and
- (b) repair the power cable and the cooling system of FNPS.

7. Assistant Director of HKO (Radiation Monitoring & Assessment) ("AD of HKO") informed Members that a radiation monitoring network consisting of 10 fixed radiation monitoring stations had been set up to monitor the radiation level in Hong Kong. HKO had also collected air samples to examine radioactive elements released during any nuclear reactor accident. The air samples collected up to the previous day indicated that the radiation level of Hong Kong was normal.

8. Under Secretary for Food and Health ("US for FH") said that Hong Kong was located some 3 000 km away from Fukushima, and radiation would be diluted when it was transmitted in air. The leakage of radioactive materials in Fukushima would have very little effect on the health of people in Hong Kong. Hong Kong residents who had visited Japan and became worried or felt sick could visit the health desk manned by the Auxiliary Medical Service at the Hong Kong International Airport ("HKIA") where radiation examination would be conducted on a voluntary basis. Those who were identified radiologically contaminated would be counselled by Port Health Officers of the Department of Health and would be transferred to designated hospitals for treatment and follow-up. Up to the morning of 19 March 2011, no one had been tested radiologically contaminated.

9. US for FH urged people not to take iodine tablets since prolonged dosage might cause disorders in the thyroid, the endocrine system and the cardiac system. There were no scientific grounds for the claim that ingesting salt could protect people from external radiation.

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10. US for FH said that the Centre for Food Safety ("CFS") of the Food and Environmental Hygiene Department had stepped up surveillance of fresh produce imported from Japan, such as milk, vegetables and fruits, for examination of radiation level from 12 March 2011 onwards. As at the afternoon of 18 March 2011, CFS had tested the radiation levels of 151 consignments of food imported from Japan in respect of radioactive contaminants including Iodine - 131, Caesium - 134 and Caesium - 137, and the results were satisfactory.

11. US for FH said that as food imported from Japan accounted for only 1 to 5% of all food supplied to Hong Kong, the food supply for Hong Kong was not seriously affected by the incident. He added that the Mainland, which was Hong Kong's major food supplier, had an emergency mechanism in response to similar incidents. In general, foodstuff wholesalers and retailers kept an extra month's stock to meet emergency needs. The Administration would closely monitor the supply of food in Hong Kong.

12. The Deputy Chairman asked whether the safety standard of DBNPS could be enhanced. Professor C F LEE responded that DBNPS had been designed and constructed in accordance with IAEA's nuclear safety standards. In general, the safety of nuclear power stations would be reviewed from time to time. IAEA might also revise its nuclear safety standard in the future.

13. Noting that the incident had been initially rated as Level 4 of the International Nuclear and Radiological Event Scale ("INES") and subsequently revised to Level 5, Mr KAM Nai-wai asked whether the rating would likely be further revised to a higher level. Noting from media reports that the Japanese authorities intended to cover FNPS reactor units with concrete to prevent the release of radioactive materials, Mr KAM Nai-wai asked whether it was the only solution to the problem.

14. Professor C F LEE advised that the INES rating reflected the impact of a reported nuclear and radiological incident on the environment. It was possible for the rating to be revised to Level 6 of INES. However, it was very unlikely to be revised to Level 7. It was technically feasible to use sea water to bring the reactor units of FNPS to a cold shut down.

15. Dr Philip WONG asked whether FNPS had an auto-shutdown mechanism in the event of a similar incident. Professor C F LEE advised that FNPS was close to the end of its service life. Although the reactor units had automatically shut down, radioactive decay continued in the reactor cores.

Action

16. Noting that plutonium was used as fuel in FNPS, Dr PAN Pey-chyou asked whether it was unusual among nuclear power stations. He also sought information about the fuel used in the nuclear power stations of other countries.

17. Professor C F LEE responded that nuclear power stations across the world, including FNPS, used a mixture of plutonium and uranium as fuel.

18. Mr Andrew LEUNG asked whether radiation released by FNPS would affect Hong Kong. AD of HKO advised that while no change in radiation level had been detected so far, any subsequent rise in radiation level as a result of the release by FNPS would have immaterial effect on Hong Kong.

19. Ms Audrey EU asked whether the incident could have been avoided, if an earthquake warning had been issued before the incident and the nuclear reactors shut down in time. Professor C F LEE explained that most earthquakes could not be predicted under existing technology.

20. Noting that the Japanese authorities had designated a zone around FNPS as an evacuation area, Ms Audrey EU asked whether people outside the zone could be contaminated by radiation and whether radiation would be transmitted with the movement of such people to other places.

21. US for FH responded that in case a person was contaminated by radiation, the radiation could be removed through washing of clothes and the body. The contamination would decrease with time and cross-contamination by body contact would be insignificant.

22. Ms Miriam LAU expressed concern that some experts had pointed out that steam likely to be radioactive might be released from FNPS in the following weeks or months. Professor C F LEE responded that steam might be discharged from the FNPS reactor units to prevent explosions.

23. Ms Miriam LAU asked about the long term effect of the core damage of FNPS reactor units.

Action

24. Professor C F LEE advised that according to IAEA's latest report on the incident, the reactor cores could be partially damaged. However, radiation from damaged reactor might not be leaked to the atmosphere, if the reactor units were successfully contained. He said that the situation might become more stable and improve in the following weeks.

25. Professor KUO Way said that all the nuclear reactors had been shut down completely in FNPS. There was no evidence of radioactive fuel leakage outside the secondary containments of FNPS's reactor units. The leakage of radioactive steam had caused the incident to be rated as Level 5 of INES. This grading was based on the extent of contamination of the environment.

26. Mr Paul TSE asked whether recent seismic activities in New Zealand and Japan were signs of further earthquakes in the region. He enquired whether Hong Kong should take any steps in view of such seismic activities. Professor C F LEE said that the attack of tsunami on Hong Kong and DBNPS was unlikely. The recent seismic activities and earthquakes in the region did not appear to be inter-related.

27. Mr LEUNG Kwok-hung asked about the INES rating for core meltdown of nuclear power plants. He expressed concern that the incident and past nuclear incidents reflected that human error was common and members of the public might not be aware of the extent of damage.

28. Professor C F LEE responded that core meltdown of nuclear power plants were rated as Level 7 of INES and could result in contamination of underground water. Professor KUO Way said that it was important to develop a user-friendly operating system and to maintain staff discipline when operating a nuclear power plant.

29. Mr LEUNG Kwok-hung asked whether the operation of a nuclear power plant would be readily monitored by the public if it was operated by the state rather than by a private company. Professor KUO Way advised that every nuclear power plant in the world was a member of IAEA and they were required to report to IAEA each incident that happened in their respective nuclear power plants.

30. Dr Margaret NG expressed concern that the information provided by the Administration and experts suggested that the incident posed little or no threat to Hong Kong, while the media reported that the incident was a catastrophe.

Action

31. US for S responded that the Administration had been closely monitoring the situation round the clock. The Administration would constantly update the public on the latest development in respect of the incident. The radiation level was currently found normal in Hong Kong, Tokyo, Yokohama, and Ibaraki. The Administration had urged Hong Kong residents in Japan to move to the southern part of Japan or return to Hong Kong.

32. Regarding the question of whether the incident was under control, US for S explained that the situation was serious but stable. Senior Physicist in Charge, Department of Health advised that the incident had very little effect on Hong Kong. When the earthquake occurred, reactor units 1 to 3 of FNPS were in operation, while reactor units 4 to 6 had been shut down. According to IAEA, reactors units 1, 2 and 3 were immediately tripped by the earthquake and automatically shutdown. When the tsunami hit FNPS, the power supply for the cooling system was disrupted, resulting in rising temperatures inside the reactor cores. The fuel rods became exposed out of the cooling system. When the temperature inside the reactor cores exceeded about 1 000 degree Celsius, the zirconium alloy of the fuel rods underwent a chemical reaction with the steam, resulting in the release of hydrogen gas inside the reactor cores. The accumulation of hydrogen gas was followed by explosions at the reactor units. Hence, the explosions at the reactor units were chemical rather than nuclear in nature. About 70% of the reactor core of reactor unit 1 had melted down and the reactor cores of reactor units 2 and 3 might have varying degrees of meltdown.

33. Noting a large-scale exercise would be conducted in 2012 in respect of the Daya Bay Contingency Plan ("DBCP"), Mr KAM Nai-wai enquired whether the Administration would advance the exercise to 2011. He queried whether the Administration was ready to do so. He also queried whether it was contradictory for the Administration to urge Hong Kong residents to leave Tokyo while not issuing a Black Outbound Travel Alert for Tokyo. Mr Paul TSE opined that the Administration should issue a Black Outbound Travel Alert for Japan.

34. US for S responded that the Administration would consider the views of IAEA and local nuclear experts on the incident and revise the large-scale exercise in respect of DBCP accordingly. Although the large-scale exercise was scheduled to be held in 2012, it could be conducted as soon as the revised plan had been drawn up. Overseas nuclear experts would be invited to observe the exercise and provide feedback.

Action

35. Mr KAM Nai-wai and the Chairman enquired about the basis for conducting the large-scale exercise once every 10 years. US for S and Deputy Secretary for Security responded that there was no definite timetable for conducting large-scale exercises. The Administration had conducted bio-chemical exercises for the 2008 Olympic Equestrian Games and the 2009 East Asian Games, which involved all government departments and were similar to those large-scale exercises for nuclear incidents. There were also small-scale exercises that were conducted more frequently, ranging from once every few months to once every few years.

36. Noting that Taiwan was assessing the impact of the worst scenario in respect of the incident, Ms Emily LAU asked whether Hong Kong should also conduct a similar assessment and draw up a corresponding contingency plan.

37. US for S responded that to his knowledge, a number of Taiwanese scholars had been studying the impact on Taiwan of possible serious nuclear accidents in Japan. Specifically, one of the scholars had updated his study having regard to the incident, and concluded that even in the worst scenario, there would be little impact on Taiwan.

38. Ms Emily LAU asked how the Administration would obtain the most accurate information on the incident. She also asked whether the flight routes from Hong Kong to Japan would be revised having regard to the incident. US for S explained that the Administration would, prior to conducting a daily press conference on the incident, invite scholars and experts on the subject to share the most updated information on the incident. The Administration would gather the information and analyze the situation. Some airlines might adjust their flight routes to Japan as a precautionary measure.

Admin

39. Ms Emily LAU requested the Administration to provide information about the assessment of Taiwan on the impact of the incident and the scholars and experts consulted by the Administration in connection with the incident.

40. Noting Taiwan had prepared for the worst scenario in respect of serious nuclear incidents, Mr WONG Yuk-man asked whether the Administration had also prepared for the worst scenario in respect of nuclear incidents. He expressed concern that while Taiwan had issued a travel warning for Japan on 15 March 2011, Hong Kong had only issued a Black Outbound Travel Alert for a few Japanese prefectures on 17 March 2011.

Action

41. US for S reiterated that the Administration had consulted experts and disseminated relevant information to the public on a daily basis. The Administration had been closely monitoring the development in respect of the incident and its impact on Hong Kong.

42. The Deputy Chairman said that the Administration should arrange for experts to disseminate information about nuclear safety to the general public. He considered that the Administration should examine whether there was room for improvement of the DBNPS notification mechanism.

43. US for S said that the Administration had requested the Hong Kong Nuclear Investment Company Limited ("HKNIC") to conduct a full review for its operational safety and identify areas for improvement. The Administration would hold a meeting to discuss the matter with HKNIC.

44. The Deputy Chairman enquired whether there would be an adequate supply of powdered milk from Japan in the coming months. He asked what those parents who fed their babies with Japanese powdered milk could do if there was a shortage of supply of powdered milk from Japan.

45. US for FH advised that the Administration had learnt from Japanese powdered milk suppliers that several thousand boxes of Japanese powdered milk had been imported to Hong Kong over the past few days. The Administration would continue to monitor the supply of powdered milk from Japan.

46. US for FH added that the ingredients of powdered milk from different places were similar. He assured parents that except for those babies who were allergic to certain brands of powdered milks, it would usually take about a week for babies to adapt to a new brand of powdered milk. In the event of shortage of Japanese powdered milks, parents could feed their babies with powdered milks from other places.

47. Mr Paul TSE asked whether the Administration would consider providing Japan with relief assistance. US for S responded that the Administration would consider rendering relief assistance to Japan.

(Members agreed to extend the meeting by 30 minutes.)

Action

48. The Deputy Chairman and Mr WONG Kwok-kin suggested the Administration should consider launching interactive sessions on the internet, radio or television channels for experts to answer questions in relation to the incident to address public's worries and concern.

49. US for S responded that the latest information on the incident would be uploaded round the clock onto the Government homepage. There were daily news releases on the latest information on the incident. The Administration would arrange television broadcasts on the incident when necessary.

50. Mr WONG Kwok-kin suggested that the Administration should consider conducting random radiation checks at HKIA on passengers and luggage arriving from Japan.

51. US for FH explained that according to the World Health Organization ("WHO"), there was currently no need to conduct radiation checks at airports. With the assistance of the Auxiliary Medical Service, the Administration had set up at HKIA a health desk which provided visitors to Hong Kong with useful health information.

52. US for FH added that the Administration had conducted radiation checks on visitors on a voluntary basis. Hong Kong was a signatory to the International Health Regulations, Article 23 of which allowed a government to require for public health purposes a non-invasive medical examination which was the least intrusive examination that would achieve the public health objective. Such a medical examination should not be carried out without travellers' prior and express informed consent. If there was evidence of an imminent public health risk, the Administration might compel a traveller, in accordance with law, to undergo the least invasive and intrusive medical examination that would achieve the public health objective. According to WHO, there was currently no such imminent public health risk and thus no traveller would be compelled to undergo the medical examination. If Hong Kong, being a member of WHO, were to compel travellers to undergo the medical examination, it had to explain to WHO the rationale for doing so.

53. Ir Dr Raymond HO said that he was the chairman of the Nuclear Safety Consultative Committee of DBNPS. The National Nuclear Safety Administration had agreed to notify Hong Kong within two working days of any non-emergency event at DBNPS once it was discovered and confirmed. He asked whether the Administration would request Mainland authorities to share more nuclear information with Hong Kong.

Action

54. US for S advised that the Administration had, prior to the incident, been working on the launching of regular exhibitions on nuclear information to strengthen the public's knowledge on the subject.

Admin

55. In response to the Chairman's question about the decision to conduct the next large-scale exercise in 2012, US for S advised that the decision was made by the Secretary for Security. The Chairman requested the Administration to provide information on when the decision was made and advise on the timing for its release of the results of the review on the improvement and upgrading initiatives of DBNPS.

Admin

56. The Chairman also requested the Administration to provide information on the Administration's capability to conduct radiation checks on imported goods, including -

- (a) the number of radiation detectors;
- (b) the number of trained staff;
- (c) the number of radiation-proof suits; and
- (d) the maximum amount of goods on which a large-scale radiation check could be conducted at one time.

Admin

57. The Chairman enquired about DBNPS's capability to resist earthquake. US for S advised that DBNPS could resist earthquakes up to Mercalli Intensity Scale 8. The Administration would provide information on its equivalent in the Richter Magnitude Scale.

II. Police's handling of public meetings and public processions
(LC Paper Nos. CB(2)1303/10-11(02) to (04))

58. Owing to time constraint, members agreed that the item would be deferred to a future meeting.

(Post-meeting note: A special meeting was subsequently scheduled for Friday, 8 April 2011, to discuss the subject and "Enforcement against the smuggling and sale of illicit cigarettes".)

Action

III. Follow-up on the incident in the Philippines on 23 August 2010 involving a tour group from Hong Kong : actions taken by the Administration in relation to the coroner's inquest
(LC Paper Nos. CB(2)1303/10-11(05) and (06))

59. US for S briefed Members on the Administration's follow-up work with the Philippine authorities on the attendance of witnesses at an inquest in Hong Kong into the death in the Philippines of eight members of a tour group from Hong Kong on 23 August 2010.

60. The Chairman reminded members that since the death inquest was in progress, the discussion should focus only on urging Philippine witnesses to testify in the death inquest.

61. Noting that of the 116 Philippine witnesses summoned, only 10 had testified, Ms Emily LAU asked whether more witnesses from the Philippines would testify in the death inquest. She also asked how the court could identify the facts, if only 10 witnesses from the Philippines had testified.

62. US for S responded that the Administration was working to ensure the attendance of witnesses from the Philippines at the death inquest. The Chief Executive ("CE") had sought assistance again from the Office of the Commissioner of Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region ("OCMFA") in this regard. The Administration would closely monitor the situation.

63. Ms Emily LAU expressed concern about the lack of assistance from the Philippine authorities for arranging the witnesses to come to testify in the death inquest in Hong Kong. US for S responded that the Philippine authorities had initially agreed to render assistance to facilitate the Coroner's death inquest. However, they did not explain their eventual lack of support in the matter.

64. Referring to paragraph 4 of the Administration's paper, Ms Audrey EU asked whether CE had received any positive response from the President of the Philippines at the margins of the Asia Pacific Economic Cooperation Economic Leader's Meeting in mid-November 2010.

65. US for S responded that the President of the Philippines had assured CE at that time that the Philippine Government would render assistance to facilitate the Coroner's death inquest. The President of the

Action

Philippines did not explain concretely how the Philippine Government would assist in the matter.

66. Noting that the Administration and the Philippine Government had entered into a bilateral agreement on mutual legal assistance in criminal matters ("MLA"), Ms Audrey EU asked whether the Philippine Government had violated any provisions under the relevant MLA for its lack of support in facilitating the Coroner's death inquest.

67. Deputy Principal Government Counsel (Mutual Legal Assistance) of the Department of Justice ("DPGC") advised that although the Philippine Government had entered into MLA with Hong Kong, it was not applicable to death inquests. Nevertheless, the Administration had drawn on the statutory framework and spirit of MLA and had requested the Philippine authorities to seek the Philippine witnesses' cooperation in the death inquest. Specifically, the Administration had undertaken to offer the following legal protection and arrangements to those Philippine witnesses who had not given evidence via video-link but were willing to testify in the death inquest -

- (a) the witnesses who had come to Hong Kong to give evidence would not be prosecuted for offences committed before their departures from the Philippines unless the witnesses had been given the opportunities to leave Hong Kong and had not left; or having left Hong Kong, had returned;
- (b) the witnesses would not be required to give evidence in any legal proceedings other than the death inquest;
- (c) the witnesses would not be subject to prosecution based on their testimonies, except for perjury or contempt of court; and
- (d) arrangements would be made for the witnesses to return to the Philippines after testifying at the death inquest.

68. Mr KAM Nai-wai suggested that CE should seek assistance from the Mainland authorities or even the Premier in this matter. He also condemned the Philippine Government for its lack of assistance in the Coroner's death inquest. He asked about the number among the 72 Philippine witnesses who had decided not to testify who were public officers of the Philippine Government.

Action

69. Chief Superintendent of Police (Organized Crime & Triad Bureau) ("CSP") responded that among the 116 Philippine witnesses summoned, there were 105 government officials and 11 civilians. Among those 72 witnesses who had decided not to testify, 66 were public officers of the Philippine Government and six were civilians.

70. The Deputy Chairman asked whether the Coroner's death inquest could be extended to allow more time for arranging the attendance of the Philippine witnesses. DPGC responded that it was up to the Coroner to determine the length of death inquest. US for S said that the Administration had to seek legal advice before taking any actions in this respect.

71. The Deputy Chairman asked whether the Philippine Government had advised in writing that the witnesses would not attend the death inquest. DPGC advised that the Department of Justice of the Philippines had served summonses on the 116 Philippine witnesses on the Coroner's behalf. 10 witnesses had testified in the death inquest through video link.

72. The Deputy Chairman asked whether the Philippine Government had taken punitive actions against relevant officers in the incident. US for S responded that the Incident Investigation and Review Committee ("IIRC"), set up by the Philippine Government, had concluded its investigation on the incident. The Philippine Government was still reviewing the second part of the report made by IIRC and the Administration had requested the Philippine Government to provide it with IIRC's second part of the report as soon as possible. To his knowledge, administrative sanctions had been imposed on some Philippine Government officials. Criminal proceedings against the brother of the perpetrator were also being instituted.

73. Mr WONG Yuk-man opined that it was the responsibility of the Department of Justice ("DoJ") rather than that of the Coroner to seek the attendance of the Philippine witnesses in the death inquest. The Administration should also seek assistance from OCMFA.

74. DPGC advised that DoJ had no power to summon those Philippine witnesses. However, it had notified the Philippine Government of the Coroner's death inquest and the summonses issued to those Philippine witnesses. The Secretary for Justice had written to the Philippine Government informing them that the Administration had undertaken to offer the legal protection and arrangements to those witnesses who were willing to testify.

Action

(Members agreed to further extend the meeting to 1:25 pm.)

75. Noting reports that the Police had difficulties in obtaining evidence in the Philippines in the investigation of the incident, Dr PAN Pey-chyou asked whether the Administration had sought assistance from OCMFA.

76. US for S responded that under the co-ordination of the Chinese Embassy in the Philippines, the Police was able to hold a meeting with the Philippine authorities immediately upon arrival in the Philippines. CSP advised that with the assistance of the Philippine authorities, the Police were able to gather information and evidence requested in Manila.

77. Dr PAN Pey-chyou enquired whether the Police had managed to collect body samples of the perpetrator in the incident. CSP responded that despite continuing efforts of the Police and DoJ, the Philippine authorities had not responded to the request for providing such samples. Dr PAN opined that the matter should be dealt with at a higher level.

78. Mr Paul TSE asked whether CE had made any written request for the assistance of the Philippine Government in the death inquest. US for S responded that the Office of the Chief Executive had made several requests in writing to the Philippine Government through the Consulate General of the Philippines in Hong Kong for arranging the attendance of Philippine witnesses at the death inquest.

79. Referring to paragraph 7 of the Administration's paper, Mr Paul TSE asked whether the consent of the Philippine authorities was required for the Philippine witnesses to testify through video link. DPGC advised that consents of both the relevant Philippine authorities and the witnesses were required.

80. Mr Paul TSE asked whether the lack of cooperation from the Philippine Government was due to the Administration's issuance of a Black Outbound Travel Alert for the Philippines. He enquired whether the Administration had rendered assistance to foreign countries under similar circumstances. DPGC responded that the Administration had rendered assistance to those jurisdictions that had entered into MLA with Hong Kong in the past.

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81. Mr LEUNG Kwok-hung, Ms Audrey EU and the Deputy Chairman considered that the Administration should notify the legal representatives of the families of the deceased tour group members that more Philippine witnesses might attend the death inquest, so that the legal representatives could apply for an extension or adjournment of the death inquest. Mr LEUNG Kwok-hung opined that more pressure should be exerted on the Philippine Government. Members considered that DoJ should, in consideration of the new development, apply to the Coroner for adjournment of the death inquest because more witnesses might be available, while noting that it would be a matter for the Coroner to decide whether to grant the adjournment.

82. DPGC reiterated that it was up to the Coroner to decide whether or not to extend or adjourn the death inquest. The Administration would closely monitor the situation and would make such application in case any new development arose.

83. The Chairman opined that the following two days were crucial to the death inquest. He urged CE to seek assistance from the highest level in the Central People's Government. Mr LEUNG Kwok-hung, Ms Audrey EU and the Deputy Chairman shared the same view and said that the matter should be dealt with at a diplomatic level. US for S agreed to relay members' concerns and suggestions to CE.

84. The meeting ended at 1:25 pm.

Council Business Division 2
Legislative Council Secretariat
21 October 2011