

立法會
Legislative Council

LC Paper No. CB(2)159/11-12
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by the Administration)

Ref : CB2/PL/SE

Panel on Security

**Minutes of special meeting
held on Friday, 8 April 2011, at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
- Members attending** : Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, BBS, JP
- Members absent** : Hon WONG Kwok-kin, BBS
Dr Hon PAN Pey-chyou

**Public Officers : Item I
attending**

The Administration

Miss Monica CHEN
Principal Assistant Secretary for Food and Health
(Health) Special Duties 1

Dr Raymond HO
Head of Tobacco Control Office
Department of Health

Mr TAM Yiu-keung
Assistant Commissioner (Intelligence & Investigation)
Customs and Excise Department

Mr CHOW Chi-kwong
Head of Revenue and General Investigation Bureau
Customs and Excise Department

Item II

The Administration

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

Mrs Millie NG
Principal Assistant Secretary for Security

Mr Peter Geoffrey HUNT
Assistant Commissioner of Police (Support)

Ms Carmen LO
Chief Superintendent of Police
(Support Branch)(Support Wing)

Mr Thomas WONG
Superintendent of Police (Licensing Office) (Acting)

**Attendance
by invitation** : Item I

Tobacco Control Concern Group

Ms Deanna CHEUNG Kin-wah
Chairman

Professor T H LAM
Director, School of Public Health
Chair and Head, Department of Community Medicine
University of Hong Kong

Hong Kong Council on Smoking and Health

Ms Lisa LAU, MH, JP
Chairman

Asian Consultancy on Tobacco Control

Dr Judith MACKAY
Director

Momentum107

Mr HO Man-kit
Convenor

Coalition of Hong Kong Newspaper and Magazines
Merchant

Mr LIU Sair-ching
Chairman

Individual
Miss NG Lai-kuen

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

**Staff in
attendance** : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Mr Bonny LOO
Assistant Legal Adviser 3

Mr Ian CHOW
Senior Council Secretary (2) 1 (Acting)

Miss Lulu YEUNG
Clerical Assistant (2) 1

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I. Enforcement against the smuggling and sale of illicit cigarettes
(LC Paper Nos. CB(1)1759/10-11(04), CB(2)1419/10-11(01) to (02))

At the invitation of the Chairman, Assistant Commissioner (Intelligence & Investigation) ("AC(II)") of the Customs and Excise Department ("C&ED") briefed Members on the enforcement against the smuggling and sale of illicit cigarettes as detailed in the Administration's paper. He informed Members that following the increase in tobacco duty in February, the illicit cigarette activities had turned more active. To tackle the situation, apart from the setting up of an Anti-Illicit-Cigarette Investigation Division with an establishment of 35 officers, about 3 000 staff of C&ED were assisting in combating illicit cigarette activities via customs clearance at the boundary control points. In addition, about 60 officers of the Special Task Force had also been re-deployed to assist in combating such activities at street level peddling. The numbers of complaints relating to illicit cigarette activities had risen in the past years, from less than 1000 in 2008 and before to 1 690 in 2009 and 1 682 in 2010. However, from January to March 2011, there were 432 complaints which were comparable to the first three months of 2010. Among these, about 30% was about sale of illicit cigarettes through telephone order.

2. The Chairman reminded the deputations attending the meeting that they were not protected by the privileges and immunities provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) when addressing the Panel. At the invitation of the Chairman, six deputations and one individual presented views on the subject matter.

Views of deputations and individual

Tobacco Control Concern Group ("TCCG")
LC Paper No. CB(2)1419/10-11(03)

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3. Ms Deanna CHEUNG kin-wah presented the views of TCCG as detailed in the submission. She pointed out that illicit cigarette activities were very serious in Hong Kong. According to a research of Euromonitor International 2010, Hong Kong was ranked the second most serious in terms of the prevalence of illicit cigarettes activities among 52 districts with 30% of the market share taken up by illicit cigarettes.

*School of Public Health, Chair and Head, Department of Community Medicine, University of Hong Kong
LC Paper No. CB(2)1419/10-11(04)*

4. Professor T H LAM presented the views of the School of Public Health and the Department of Community Medicine of the University of Hong Kong as detailed in the submission. He expressed support for the increase in the tobacco duties tax and said that it was a necessary and effective measure for promoting public health under the World Health Organization Framework Convention on Tobacco Control.

*Hong Kong Council on Smoking and Health
LC Paper No. CB(2)1419/10-11(05)*

5. Ms Lisa LAU presented the views of the Hong Kong Council on Smoking and Health as detailed in the submission. She said that it was the responsibility of the Administration to increase tobacco duty so as to reduce the consumption of tobacco and safeguard the health of people in Hong Kong. The problem of illicit cigarettes activities would still exist even if there was no increase in the tobacco duty.

*Asian Consultancy on Tobacco Control
LC Paper No. CB(2)1419/10-11(06)*

6. Dr Judith MACKAY presented the views of the Asian Consultancy on Tobacco Control as detailed in the submission. She said that the tobacco duty level in Hong Kong was consistent with the global trend. The Government policy in the past 30 years had been effective in maintaining a low smoking rate.

Momentum 107

7. Mr HO Man-kit said that Article 107 of the Basic Law provided that the principle of keeping expenditure within the limits of revenues in drawing up its budget should be followed and efforts should be made to achieve a fiscal balance and avoid deficits. It was believed that there

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should be no increase in tax or introduction of new tax if the government was not in deficit. He did not support the proposed increase in the tobacco duty and was concerned that the increase would result in more illicit cigarette activities.

*Coalition of Hong Kong Newspaper and Magazines
LC Paper No. CB(2)1459/10-11(01)*

8. Mr LIU Sair-ching presented the views of the Coalition of Hong Kong Newspaper and Magazines as detailed in the submission. He informed Members that the sales volume of a certain illicit cigarette stall had increased threefold after the increase of the tobacco tax in 2011. The business of the newspaper hawkers was seriously affected. He said that illicit cigarettes were openly on sale in a public market operated by the Food and Environmental Hygiene Department. He considered it a mistake of the Government to increase tobacco tax.

Individual Newspaper Hawker

9. Miss NG Lai-kuen said that according to experience, her income dropped seriously every time after an increase in tobacco duty. While the number of smokers did not drop, they had shifted to buy illicit cigarettes.

Discussion

10. Referring to the view of Momentum 107, Mr Albert HO said that the issue should be perceived from the perspective of public health. Given the call from the World Health Organization for support internationally to reduce the number of smokers and safeguard people's health by means of various measures, he was in support of the increase in tobacco duty.

11. Referring to the market research finding of Euromonitor International 2010 that Hong Kong was ranked second among 52 districts with 30% of the market share taken up by illicit cigarettes, Mr Albert HO had grave concerns about whether the situation would further deteriorate with the increase in the tobacco duty. He expressed concern about the adequacy of the manpower of C&ED for combating the illicit cigarette activities. He was also concerned that with increased illicit cigarette activities, more young people might be involved in the sale of illicit cigarettes and commit crime. He considered that in order to encourage people to give up smoking, it was necessary for the Government to strengthen the necessary support, in particular to the elderly.

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12. Ms Cyd HO expressed concern about the inadequacy of the manpower of C&ED for combating the illicit cigarette activities. She considered that this had caused the flooding of the illicit cigarettes in Hong Kong. She urged C&ED to work with District Councils to combat illicit cigarette activities at district level. District Council members who were aware of the black spots of illicit cigarette activities in the districts should report the activities to C&ED for follow-up. She said that consideration should be given to seeking additional funding, if necessary, for increasing the manpower of C&ED for combating illicit cigarette activities.

13. Ms Cyd HO also expressed concern about the problem of sale of counterfeit cigarettes. Noting that the content of harmful ingredient in the counterfeit cigarettes was 20 times that of genuine cigarettes, she asked whether C&ED would conduct test on the counterfeit cigarettes seized and announce the results so as to make the smokers aware of the adverse effects of consuming counterfeit cigarettes.

14. AC(II) made the following responses -

- (a) It was believed that the data used by Euromonitor in its research dated back to that for previous years and included illicit cigarettes transhipped via Hong Kong to other places;
- (b) Information from the newspapers hawkers and District Council members on illicit cigarette activities was welcome. Since the upward adjustment of tobacco duty rates was announced in the 2011-2012 Budget, C&ED had been well prepared to step up its action to prevent the deterioration of illicit cigarette activities. Manpower had been strengthened through internal redeployment to closely monitor illicit cigarette activities at various control points and on the streets, and to bolster enforcement against illicit cigarettes at different levels, including the importation, storage, distribution and peddling of illicit cigarettes. Where necessary, more staff would be re-deployed for combating illicit cigarette activities;
- (c) Among some 150 staff in the Special Task Force of C&ED, around 60 had been deployed for combating street level peddling of illicit cigarettes at various black spots. More staff from the Special Task Force would be deployed to

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further strengthen enforcement, if necessary. A review would be conducted by C&ED at a suitable time later to examine whether it was necessary in the longer term to allocate more resources and strengthen the establishment for combating illicit cigarette activities. After the increase in tobacco duty, extra resources had been allocated for combating smuggling of cigarettes. In the first 3 months of 2011, 20 million illicit cigarettes were seized, which was double the amount in the same period of last year; and

- (d) It was found that 40% of the illicit cigarettes seized were counterfeit cigarettes. The nicotine and tar contents in the counterfeit cigarettes were found comparable to those in the genuine cigarettes. As smoking was harmful to health, the overall message was to discourage smoking regardless of whether the cigarettes were genuine or counterfeit.

15. Mr Vincent FANG considered that Members and other persons attending the meeting supported combating illicit cigarettes. Given the active illicit cigarette activities after the increase in the tobacco duty and the fact that the Special Task Force might need to attend to many other areas requiring extra support in the department, he pointed out that it was necessary to strengthen the manpower for carrying out anti-illicit cigarette duties. He suggested that revenue generated from the increase in tobacco duty rates be used for -

- (a) increasing resources for C&ED to combat illicit cigarette activities; and
- (b) providing free of charge smoking cessation treatment for smokers.

16. Principal Assistant Secretary for Food and Health (Health) Special Duties 1 responded that free of charge services were provided by the non-government organizations for cessation of smoking. The drugs provided by the Hospital Authority for cessation of smoking were also free of charge. The Chairman requested the Administration to provide information on whether any smoking cessation service was provided at a charge.

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17. Mr CHEUNG Man-kwong expressed concern about active illicit cigarette activities associated with the increase in tobacco duty. He said that such activities included peddling at street level, sale on mobile

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vehicles, sale at pharmacies or public housing units and through telephone order. He said that it was very important to introduce ancillary measures to combat illicit cigarette activities. Apart from combating the illicit cigarettes at the boundary, he asked about the actions taken by C&ED to tackle such activities and whether C&ED had adequate manpower to perform such tasks. The Chairman said that besides combating illicit cigarettes at the boundary, C&ED should also combat the sale of illicit cigarettes at district levels.

18. AC(II) responded that there was greater economic incentive for smuggling illicit cigarettes after the increase in the tobacco duty rates. More resources had thus been deployed to strengthen enforcement actions against illicit cigarette activities both at the boundary and on the street. As a result, the quantity of illicit cigarettes seized in the last few months had increased.

19. AC(II) added that enforcement actions were targeted at different levels, including importation, distribution and retail of illicit cigarettes. Regarding the retail level, intensive raids had been launched to combat street peddling. The mode of retail of illicit cigarettes had thus shifted towards sale through telephone order, which was more difficult to detect. C&ED was combating such activities through undercover operations and operations targeted at the importation and storage of illicit cigarettes. To increase deterrence, the provision of the Organized and Serious Crimes Ordinance (Cap. 455) ("OSCO") had been invoked in the prosecution of a cigarette smuggling syndicate in the previous year and 18 members of the syndicate were convicted and given substantial imprisonment sentences.

20. Mr WONG Ting-kwong said that some gangsters were reported to swap illicit cigarettes with genuine ones in convenience stores. He also asked how the confiscated illicit cigarettes were disposed of.

21. AC(II) responded that there might be, in rare circumstances, individual smokers who swapped packets of illicit cigarettes with genuine ones in convenience stores but such swapping of cigarettes could not be made in large quantities and had little effect on the overall supply of illicit cigarettes. He added that confiscated illicit cigarettes were auctioned and sold to other countries in the past but such a practice had already been discontinued for many years. The current practice was that confiscated illicit cigarettes were kept in the warehouse of C&ED and subsequently destroyed. C&ED was reviewing the situation with the relevant policy bureaux to facilitate the disposal of confiscated cigarettes by way of destruction in all cases.

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22. Mr WONG Ting-kwong remarked that the auction of illicit cigarettes seized in operation of C&ED was unethical. He requested the Administration to provide information on the seized illicit cigarettes with breakdown on the quantities which had been auctioned and destroyed. The Chairman said that the auctioning of illicit cigarettes should be discontinued.

23. Mr LEUNG kwok-hung said that policy of allowing incoming passengers to only bring in up to 19 duty-free cigarettes had made the sale of cigarettes at the duty-free shops difficult. He asked whether the remaining cigarettes had become one of the source of the illicit cigarettes in the market. He said that the increase in the number of cases of seizure of illicit cigarettes but reduction in the total quantity seized might reflect that more people were involved in such activities. He considered that increasing tobacco duty would result in more illicit cigarette activities. He suggested that the Government should use the revenue generated from the tobacco tax for provision of smoking cessation services.

24. AC(II) responded that cigarettes from duty-free shops accounted for 7% of the illicit cigarettes seized and efforts were made to combat such source.

25. Professor T H LAM expressed support for combating the illicit cigarette activities and using tobacco duty revenue to combat illicit cigarette activities and provide smoking cessation service for smokers or treatment for related diseases.

26. Ms Audrey YU expressed support for the increase in the tobacco duty, but was concerned that the substantial increase in the tobacco duty would result in more active illicit cigarette activities. She said that smokers who could not afford to buy genuine cigarettes might turn to illicit cigarettes or counterfeit cigarettes. She considered that the Administration should provide more information on its efforts against illicit cigarette activities to the Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011.

27. Ms Audrey YU sought the views of representatives of the newspaper merchants on the Administration's effort in tackling illicit cigarette activities. Mr LIU Sair-ching responded that the manpower of the smuggling syndicates far exceeded that of the Anti-Illicit-Cigarette Investigation Division of C&ED.

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28. Dr LAM Tai-fai said that illicit cigarette activities was a long-term problem. He expressed concern about the impact of the increase in tobacco duty on illicit cigarette activities. He considered that the Administration should combat the problem at source and put more efforts in promoting a healthy lifestyle and education on the adverse effects of smoking.

29. Mr Paul TSE said many members of the public might not regard the sale of illicit cigarettes as a serious offence. He considered that C&ED should combat illicit cigarette activities at source, allocate additional manpower and resources for enforcement and review penalty level for breach of the relevant legislation. He sought information on the penalty levels for offences relating to illicit cigarette activities.

30. AC(II) advised that under section 17(1) and 17(8) of the Dutiable Commodities Ordinance (Cap. 109), anyone who had in his possession, custody or control, dealt with, disposed of, sold, offered to sell, or bought illicit cigarettes committed an offence. The maximum penalty on conviction was a fine of \$1 million and imprisonment for two years. 80% of those convicted of buying illicit cigarettes received a fine below \$3,000 while 70% of those convicted of selling illicit cigarettes were sentenced to imprisonment, among whom about 50% were sentenced to less than 12 months' imprisonment. For more serious cases, the relevant provisions of OSCO would be invoked in prosecution to enable the court to impose higher sentences.

31. Mr WONG Yuk-man strongly disagreed with the view that the problem of illicit cigarette activities would not be addressed even if the tobacco duty was not increased. He strongly opposed the auction of confiscated illicit cigarettes.

32. The Deputy Chairman said that the existing establishment of the Anti-Illicit-Cigarette Investigation Division of C&ED was inadequate for handling the illicit cigarette activities at different levels. He asked how C&ED would tackle the problem of inadequacy of manpower.

33. AC(II) responded that apart from the regular establishment, 60 officers of the Special Task Force had already been deployed to assist in combating the illicit cigarette activities after the increase in tobacco duty rates. According to past experience, illicit cigarette activities would usually turn more active in the first few months after each tobacco duty increase and subside afterward under sustained enforcement action. C&ED would review at a suitable time later the need in the longer term to increase its manpower for combating illicit cigarette activities.

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34. The Chairman said that the establishment of the Anti-Illicit-Cigarette Investigation Division of C&ED was far from adequate for combating illicit cigarette activities and the temporary deployment of some members of the Special Task Force might affect other operations of C&ED. To address the problem, he considered that the Anti-Illicit-Cigarette Investigation Division should be provided with an additional manpower of 50 to 100 officers. He requested the Administration to provide a response in three months' time.

II. Police's handling of public meetings and public processions

(LC Paper Nos. CB(2)1303/10-11(02) to (04) and CB(2)1367/10-11(01))

35. At the invitation of the Chairman, Under Secretary for Security ("US for S") briefed Members on the Police's handling of public meetings and public processions as detailed in the Administration paper. He informed Members that there were around 4 500 public meetings and 1 100 public processions in 2010, giving an average of about 15 public meetings and processions per day. The number was much more than that in the past and most of these public meetings and processions had been conducted in a peaceful manner.

36. Noting Members' concerns about the Police's handling of the public meetings at the Chater Garden and public processions to Central Government Offices ("CGO") on 6 March 2011, US for S said that the demonstrators had refused to leave after the procession and occupied Queen's Road Central and then Des Voeux Road. The traffic was blocked and many people and road users were stranded. Some of the demonstrators charged the Police's cordon line and some police officers were injured. After a period of seven hours and having issued repeated warnings, the Police was forced to use the minimum force to handle the situation. The Police had demonstrated professionalism and exercised restraint to restore order.

37. Assistant Commissioner of Police (Support) ("ACP(S)") advised that the Police had been notified of three public processions on 6 March 2011 with a total of 7 000 participants. The Police had tried to facilitate the processions destined for CGO. At 3:40 pm, demonstrators of one of the processions started to climb over the mills barriers outside CGO and some of the Police officers were injured in the process of restoring order. In the evening, demonstrators were given verbal

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warnings and requested to leave after 5:00 pm. At around 5:15 pm, another group of demonstrators occupied Queen's Road Central, causing traffic congestions up to Wanchai. Repeated verbal warnings issued by the Police were ignored by the demonstrators. At around 9:09 pm, demonstrators broke through the cordon line and further proceeded to the junction of Des Voeux Road Central and Ice House Street, which caused major traffic congestion on Hong Kong Island. Demonstrators continued to ignore warnings, warning banners displayed and confrontation began at around 9:20 pm. In view of the immediate danger to personal safety of the officers who had been assaulted by the demonstrators and the need to contain the violence, the Police had used the minimum force. A total of seven Police officers had used Oleoresin Capsicum ("OC") foam after having given nine specific and four general warnings. At 9:27 pm, Police issued another warning to the demonstrators that they were participating in an unlawful assembly and then made preparation to arrest. At 10:00 pm, the Police again informed the demonstrators that arrest actions would start. Between 10:02 pm and 11:20 pm, 113 demonstrators comprising 86 males, 24 females and three boys were arrested. They were subsequently released on bail. Another person was arrested for assault on a Police officer who was seriously injured during the public meeting at CGO.

(Post-meeting note: The speaking note provided by the Police was circulated to members vide LC Paper No. CB(2)1493/10-11 on 13 April 2011.)

38. Mr LEUNG Kwok-hung said that the information provided by the Administration was different from that available on the Internet. It had been said that the Police had taken the initiative to charge at the demonstrators. US for S responded that accurate information had been provided to the Panel.

39. Regarding the public meeting and public procession on 6 March 2011, Mr LEUNG Kwok-hung asked whether Police officers were allowed to aim OC foam at the sky as stated recently by the Secretary for Security. He said that a senior Police officer was reported to have ordered Police officers at the scene to charge at the demonstrators. Regarding the public meeting outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("the Liaison Office") on 27 February 2011, he queried why the Police had snatched away a banner from demonstrators.

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40. US for S and ACP(S) responded that the Police had always been impartial in handling public meetings and public processions. While facilitating people's expression of views, the Police had to maintain the public safety and order. The Police would use minimum force, including the use of OC foam in accordance with established procedures, to restore public order. The Police officers at the scene were only advancing arm-in-arm to push the demonstrators back peacefully. The Police officers had used OC foam to disperse demonstrators when the behaviour of the latter became violent and posed danger to the personal safety of the Police officers. The Police had removed a banner at the public meeting outside the Liaison Office on 27 February 2011 since several demonstrators holding a banner were standing on the mills barrier which could cause injury to themselves or other people.

41. Regarding the Police's use of OC foam at the public meeting and public procession on 6 March 2011, Dr Philip WONG asked whether the Police had struck a balance between facilitating all lawful and peaceful public meetings and processions and protecting public safety and public order, given that the Police did not take action against the demonstrators until seven hours later.

42. US for S responded that the actions taken by the Police on 6 March 2011 to restore public order were appropriate. He said that the Police had always struck a balance between facilitating all lawful and peaceful public meetings and processions and reducing the impact of public meetings and processions on other people or road users to ensure public safety and public order. On occasions where the law was or likely to be violated during public meetings or processions by acts of individuals, especially when there were acts which might cause danger to others or lead to a breach of the peace, the Police would make professional judgement based on the assessment at scene, and if intervention was required, issued verbal warnings to the person concerned when circumstances permit. ACP(S) supplemented that Police had acted in accordance with the law and the Police's internal guidelines had struck a balance between facilitating freedom of peaceful protest and the rights and freedom of others. When the demonstrators occupied Queen's Road Central, the Police was able to divert the traffic to other roads. However, when the demonstrators proceeded to Des Voeux Road and refused to move onward to the northern part of Ice House Street, the Police had to take action immediately.

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43. Referring to the submission from Hong Kong Human Rights Monitor ("HKHRM"), Dr Philip WONG commented that HKHRM seemed to be only concerned about the rights of demonstrators but not the rights of other members of the public. Ms Emily LAU declared that she was a member of HKHRM. She said that HKHRM was a non-government organization monitoring the Government. Ms Cyd HO declared that she was a former Chairman of HKHRM.

44. Noting the increasing number of public meetings and processions in recent years, Ms Emily LAU said that the Administration should examine why so many people were dissatisfied about the Government policy. She considered that the Police should be professional, impartial and independent in the execution of duties. She considered that the Administration should conduct an independent review on the Police's handling of the public meeting and public procession on 6 March 2011 and publicize the findings. The Police should also provide its video footage on the public meetings and public processions on that day. Regarding the use of OC foam on 6 March 2011, Ms Emily LAU and Ms Cyd HO enquired whether proper procedures had been followed in respect of issuing verbal warnings to demonstrators.

45. ACP(S) responded that the Police officers had acted professionally, impartially and flexibly at the public meetings and public processions on 6 March 2011. There were clear internal guidelines for Police officers that where circumstances permitted, verbal warnings would be issued to the persons concerned if intervention was required. On 6 March 2011, all Police officers who had used OC foam had given both general and specific verbal warnings with the exception of one Police officer who had to take immediate actions when another Police officer was facing an attack by demonstrators.

46. The Chairman and Ms Cyd HO requested the Administration to consider arranging for the video footage taken by the Police during the public meetings and public processions on 6 March to be viewed by members at a closed-door session. Mr IP Kwok-him however considered that it was inappropriate to view the video footage, as there might be prosecution against some of the demonstrators.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)1724/10-11(01).)

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47. The Deputy Chairman said that the freedom of holding public meetings and public processions should be exercised in a peaceful manner. He expressed support for the Police to take decisive actions to restore public order.

48. Mr Paul TSE asked whether there were guidelines on the handling of public meetings and public processions when the number of participants, location or demonstration route differed from the original plan provided by the organizing party. He asked whether the Police were more concerned about public meetings and processions outside the Liaison Office or the consulate of other countries in Hong Kong.

49. ACP(S) responded that upon receipt of a notification about a public meeting or procession, the Police would establish early contact and maintain an active and close communication with the event organizer to provide advice and assistance. The Police would facilitate all peaceful public meetings and processions and strike a balance between the freedom of expression of the participants and the rights of other members of the public. There was no question of any particular concern about public meetings and public processions held outside the Liaison Office or the consulate of other countries in Hong Kong.

50. Ms Cyd HO said that some people would resort to civil disobedience to express dissatisfaction about government policy. Mr IP Kwok-him however disagreed with the expression of dissatisfaction by civil disobedience.

51. Ms Cyd HO asked whether Police officers who were found in breach of the internal guidelines on the use of OC foam would be subject to disciplinary actions. Referring to a survey conducted by American Civil Liberties Union, she said that there were cases of death of demonstrators caused by allergy to OC foam. She also asked whether some demonstrators were not allowed to leave the cordon zone before the Police used OC foam.

52. US for S responded that demonstrators who considered themselves treated unfairly by the Police could lodge a complaint with the Complaints Against Police Office. ACP(S) added that OC foam was safe in comparison with other weapons and the Police would issue warnings to the persons concerned, if circumstances permitted, before the use of OC foam. To his knowledge, allergy to OC foam was not the major cause of death in overseas public meetings or processions. There were in fact some other reasons, such as heart attack, that caused the death of people when they were in agitated situation.

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53. The Chairman said that after studying the speaking note of ACP(S), he considered that the Secretary for Security should apologize for having said that the Police officers concerned had aimed OC foam at the sky. US for S responded that the Secretary for Security only meant that the Police officers concerned did not deliberately aim OC foam at children.

54. The meeting ended at 2:35 pm.

Council Business Division 2
Legislative Council Secretariat
25 October 2011