

Panel on Security

List of outstanding items for discussion

(position as at 2 February 2011)

**Proposed timing
for discussion**

Items proposed by members

1. Monitoring of anti-terrorism measures by the Administration

In the course of deliberations of the Bills Committee on United Nations (Anti-Terrorism Measures) Bill, the Administration undertook to review periodically the anti-terrorism measures set out in legislation to ensure that they were in line with the international trend. The Bills Committee agreed that the monitoring of anti-terrorism measures should be referred to the Panel for follow-up.

To be confirmed

At the suggestion of members, the subject of "Measures to combat terrorist activities in Hong Kong" was discussed at the meeting on 5 December 2002.

At the meetings on 16 January 2003 and 20 February 2003, the Panel was consulted on the proposals in the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003, which sought to implement relevant international conventions against terrorism, and to provide the means for the Secretary for Security ("S for S") to effectively freeze terrorist assets which are not funds. The Administration subsequently introduced the Bill on 21 May 2003. A Bills Committee formed to study the Bill had completed its work and the Bill was passed at the Council meeting on 30 June 2004. During the resumption of Second Reading debate on the Bill, the Administration stated that it would review the reporting requirements under section 12 of the Ordinance and section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance in the context of the exercise to put in place the Financial Action Task Force on Money

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Laundering's Forty Recommendations ("the FATF Recommendations") which was scheduled to start in 2004-2005.

In its letter dated 27 October 2004 (LC Paper No. CB(2)110/04-05(01) issued on 28 October 2004), the Administration advised that it planned to launch the proposed review of the suspicious transaction reporting requirements in the first quarter of 2005.

Progress reports provided by the Administration were circulated to members vide LC Paper Nos. CB(2)875/04-05, CB(2)751/05-06 and CB(2)973/05-06 on 16 February 2005, 23 December 2005 and 25 January 2006 respectively.

The review of the suspicious transaction reporting requirements was launched in the first quarter of 2005 and is still underway. The Administration will inform the Panel of the result of the review in the course of the preparation of the legislation for implementing the FATF Recommendations.

The Administration briefed the Panel on the proposed rules of court and code of practice to be made for the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) at the Panel meeting on 2 December 2008.

The Rules of the High Court (Amendment) Rules 2009 ("the court rules") which set out the procedures for applications to the Court of First Instance for specification of persons and property as terrorists, terrorist associates or terrorist property, forfeiture of terrorist property, and production of information and material etc. were published in the Gazette on 9 October 2009. Those rules will come into operation on the day appointed by S for S for the commencement of sections 5, 6, 8, 13, 17 and 18 of Cap. 575 and of sections 5, 7, 12, 13, 16 and 17 of the United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004. In February 2010, S for S gave notice to move a resolution seeking

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the Legislative Council's approval of the code of practice for requiring persons to answer questions, furnish information or produce material relevant to the investigation of an offence under Cap. 575. The court rules and the code of practice have been scrutinized and passed by the Legislative Council in December 2009 and July 2010 respectively. The Administration published in the Gazette on 15 October 2010 two Commencement Notices, namely, the United Nations (Anti-Terrorism Measures) Ordinance (Commencement) Notice 2010 and the United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 (Commencement) Notice 2010, to appoint 1 January 2011 as the commencement date for the uncommenced provisions mentioned above.

2. Follow-up on issues relating to the Police's List of Recordable Offences

Issues relating to the Police's List of Recordable Offences and Certificate of No Criminal Conviction were discussed at the meeting on 2 April 2004. Members were concerned that besides some 167 recordable offences which might be recordable by the Police, offences where a heavier sentence would be imposed on conviction would also be recorded. They considered that the criteria for recording a conviction should be set out clearly and the records of convictions maintained by the Police should be separated from the system for issuing Certificate of No Criminal Conviction. The Administration stated that it would examine the issue having regard to the practice in other countries. Hon James TO proposed that the matter be followed up by the Panel.

To be confirmed

3. Legislative amendments to the Public Order Ordinance and Police's internal guidelines

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At its meeting on 1 November 2005, the Panel discussed issues arising from the judgment delivered by the Court of Final Appeal on the case of *LEUNG Kwok-hung and others v. the Hong Kong Special Administrative Region*. The Statute Law (Miscellaneous Provisions) Bill 2007, which incorporated legislative amendments to the Public Order Ordinance in the light of the judgement, was passed at the Council meeting on 30 April 2008.

To be confirmed

Separately, the Administration informed the Panel that the Police would, in consultation with the Department of Justice, review the internal guidelines for dealing with notifications of public meetings and processions. A copy of a set of new guidelines adopted by the Police on the approach to the Public Order Ordinance in relation to public meetings and public processions, together with a related note prepared by the Police, were issued to Members vide LC Paper No. CB(2)1224/05-06 on 23 February 2006 for reference.

The processing of notification of public meetings and processions under the Public Order Ordinance was discussed at the Panel meeting on 5 June 2007.

4. Interception of communications and covert surveillance

In the course of examination of the Interception of Communications and Surveillance Bill, the Administration undertook to -

To be confirmed

- (a) provide the Panel with an updated version of the code of practice from time to time;
- (b) report to the Panel the outcome of the review of the intelligence management system of law enforcement agencies;
- (c) report to the Panel the results of the Administration's review on issues raised in the Commissioner on Interception of Communications

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and Surveillance (the Commissioner)'s annual report to the Chief Executive ("CE"); and

- (d) provide by the end of 2009 the Administration's report on its comprehensive review on the implementation of the Bill, after the Commissioner submitted his second full-year report to CE by the end of June 2009.

Following the enactment of the Interception of Communications and Surveillance Ordinance (Cap. 589) ("ICSO") on 9 August 2006, the Commissioner had submitted four annual reports to CE. The Security Bureau ("SB"), in consultation with the law enforcement agencies ("LEAs") concerned, had studied the matters raised therein and briefed the Panel on the results of the Administration's study of matters raised in those annual reports.

At the meeting on 7 December 2009, the Administration informed members that it had embarked on a comprehensive review of ICSO. The Administration briefed members on the scope of the review conducted by the Administration at the Panel meeting on 6 July 2010. It would revert to the Panel in the first/second quarter of 2011 on the results of the review, the proposed measures for improving ICSO and the results of its review on the intelligence management system.

The Commissioner's Annual Report 2009 was tabled at the Council meeting on 24 November 2010. The results of the Administration's study of matters raised in the Annual Report 2009 were discussed at the Panel meeting on 29 November 2010.

5. Monitoring mechanism on government intelligence agencies

At the meeting on 8 May 2007, members agreed that a research study on the parliamentary monitoring

To be confirmed

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mechanism on intelligence agencies in selected places should be conducted by the Research and Library Services Division ("RLSD") of the Legislative Council Secretariat.

At the Panel meeting on 3 June 2008, Members were briefed on the main findings of the research report on the parliamentary monitoring mechanism on intelligence agencies in selected places prepared by RLSD.

At the Panel meeting on 14 October 2008, Hon Emily LAU suggested that the subject of parliamentary monitoring mechanism on intelligence agencies should be discussed at a future meeting.

On 11 February 2009, the Administration provided a written response to the research report prepared by RLSD on the applicability of overseas monitoring mechanisms in Hong Kong (LC Paper No. CB(2)852/08-09(01)).

6. Policy and measures for enhancing the safety of sex workers

On 2 December 2008, Hon Emily LAU suggested that the Panel should discuss the issue at a future meeting. To be confirmed

7. Latest development in the provision of rehabilitative services by the Correctional Services Department

At its meeting on 5 May 2009, the Panel was briefed on the latest developments in the provision of rehabilitative services by the Correctional Services Department. Members agreed that the Panel should follow up the subject in future. To be confirmed

8. Election-related corruption reports

When receiving the briefing by the Commissioner of the Independent Commission Against Corruption ("ICAC") at the meeting on 20 October 2009, members noted that To be confirmed

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in the first nine months of 2009, 214 election-related reports were received, of which 177 were related to the 2008 Legislative Council Election. Members expressed concern about the nature and the course of action taken by ICAC in respect of the cases. Members agreed that the Panel should follow up the subject in future.

An information paper on the 177 reports arising from the 2008 Legislative Council Election was circulated to members vide LC Paper No. CB(2)910/09-10(01) on 8 February 2010. ICAC advises that a review is being undertaken on the approach to deal with election-related corruption reports involving minor and technical breaches of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). The review aims to optimize the deployment of ICAC investigative resources whilst ensuring that public elections in Hong Kong are conducted fairly, openly and honestly. The exercise is expected to be finalized within the first half of 2011 for submission to the Operations Review Committee for endorsement before submission to the Panel on Security.

9. Measures against cross-boundary corruption

At the meeting on 20 October 2009, Hon Cyd HO suggested that measures taken by ICAC against cross-boundary corruption should be discussed at a future meeting.

To be confirmed

An information paper on the efforts made by ICAC in forging closer cooperation with the Guangdong Provincial People's Procuratorate ("GDPP") and the Commission Against Corruption of Macao ("CCAC") on corruption prevention and education was circulated to members vide LC Paper No. CB(2)910/09-10(02).

At the meeting on 1 June 2010, in the context of discussing the item "Security matters under the Framework Agreement on Guangdong/Hong Kong Co-operation", members were briefed on the

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collaboration among ICAC, GDPP and CCAC in the exchange of anti-corruption experiences on practical issues and the provision of corruption prevention services to cross-boundary business enterprises in the Pearl River Delta Region.

According to ICAC, ICAC, GDPP and CCAC agreed in July 2010 to set up a standing working group to jointly map out long-term strategies and objectives to strengthen tripartite cooperation on corruption prevention and education. A meeting was conducted with GDPP on 11 January 2011 to map out the corruption prevention and education programme for small and medium size enterprises in the Pearl River Delta Region. It was agreed that a seminar would be held in Hong Kong in the fourth quarter of 2011.

10. Updating and replacement of fire services equipment and apparatus

At the meetings on 4 May and 6 July 2010, the Panel discussed the existing procedures for procuring fire services equipment and apparatus, as well as the Administration's proposed measures for expediting the procurement processes. Members were informed that in order to further improve the procurement process of fire services equipment and apparatus, SB and FSD had commissioned the Efficiency Unit ("EU") of the Government to conduct a study. The study was expected to be completed by the end of 2010. In concluding the discussion, members requested the Administration to consider their views and revert to the Panel before the end of 2010 on the proposed increase of manpower in FSD and reduction of the conditioned hours of work of FSD staff to 48 hours per week.

To be confirmed

At the special meeting on 17 January 2011, the Administration briefed the Panel on the findings of the management study conducted by EU on procurement and

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related management issues of FSD and the improvement measures recommended by EU for implementation. The Administration was requested to provide the full report of the management study and a concrete timetable for implementing the improvement measures therein contained. Hon Margaret NG suggested that the subject matter should be followed up at a future meeting.

11. Daya Bay Nuclear Station Notification Mechanism

At the meeting on 6 July 2010, the Panel discussed the event which occurred at the Daya Bay Nuclear Power Station ("DBNPS") on 23 May 2010 and the follow-up actions taken by the Government of the Hong Kong Special Administrative Region ("HKSAR") after the event. Members, in general, considered that there was an urgent need for the Administration to conduct an overall review of the current notification mechanisms agreed with the Prevention and Emergency Administrative Commission Office of Guangdong Province for Nuclear Accident of Civil Nuclear Facility, CLP Power Hong Kong Limited and the Hong Kong Nuclear Investment Company, as well as the Daya Bay Contingency Plan developed by the HKSAR Government for handling nuclear incidents in Daya Bay, with a view to identifying areas for further improvement and facilitating the Administration in making proactive response to nuclear incidents in future. Members agreed that the Panel should follow up relevant issues and discuss the subject at the beginning of the 2010-2011 legislative session.

To be confirmed

Arising from a Level 1 event occurred at DBNPS on 23 October 2010, the Panel discussed the matter again on 16 November 2010.

At the special meeting on 17 January 2011, the Administration briefed the Panel on the progress of the review on the notification mechanism of DBNPS and the

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measures to be put in place to enhance the transparency of the operation of DBNPS. Members expressed concerns over a number of issues, including the enhancement to the information disclosure mechanism for emergency or non-emergency events. Members agreed that the Administration should report to the Panel in five months with an update on the subject, so that the subject would be discussed at a Panel meeting before the end of the 2010-2011 legislative session, if necessary.

Items proposed by the Administration

12. Review of torture claim screening under the enhanced mechanism and the relevant legislative work

The enhanced screening mechanism was launched in December 2009. The Administration plans to report to the Panel on the progress of screening, and its legislative proposal to put in place a statutory mechanism.

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At the meeting on 7 December 2010, members agreed that a research study on mechanisms for handling torture claims in selected jurisdictions should be conducted by the Research Division of the Legislative Council Secretariat.

13. Construction of a Secondary Boundary Fence and new sections of the Primary Boundary Fence and the Boundary Patrol Road arising from the reduced coverage of the Frontier Closed Area – Phase 2

The Administration intends to brief the Panel on the details and estimated costs of Phase 2 of the construction

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works project arising from the reduction of the coverage of the Frontier Closed Area, before seeking funding support from the Finance Committee.

14. Establishing the sexual conviction record check mechanism for child-related work

The Administration plans to brief the Panel on the implementation details of the sexual conviction record check mechanism for child-related work.

First/second
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15. Territory-wide survey of industrial buildings conducted by the Fire Services Department

The Administration intends to report to the Panel on the results and recommendations of the territory-wide survey on the fire safety of industrial buildings conducted by FSD.

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