

立法會
Legislative Council

LC Paper No. CB(2)2814/11-12
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by the Administration)

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Panel on Security

Minutes of special meeting
held on Friday, 9 March 2012, at 10:45 am
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
Hon Albert HO Chun-yan
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 CHIM Pui-chung
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
- Members attending** : Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Alan LEONG Kah-kit, SC
- Members absent** : Hon CHEUNG Man-kwong
Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP

Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou

Public Officers : Item I
attending

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

Mr CHOW Wing-hang
Principal Assistant Secretary for Security

Mr CHAN Man-lang
Assistant Director of Immigration (Control)

Mr LEUNG Kwok-hung, IMSM
Assistant Director of Immigration (Enforcement and
Torture Claim Assessment)

Clerk in : Mrs Sharon TONG
attendance Principal Council Secretary (2)

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

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Camy YOONG
Clerical Assistant (2) 7

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I. Measures to tackle the problem of pregnant Mainland women giving birth in Hong Kong
(LC Paper Nos. CB(2)1280/11-12(01) and IN15/11-12)

Under Secretary for Security ("US for S") briefed members on the measures to tackle the problem of pregnant Mainland women giving birth in Hong Kong, which were detailed in the Administration's paper. He added that the enforcement authority of the Guangdong Province had conducted

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twice in February 2012 large-scale inspection of intermediaries which were suspected of having been involved in illicit activities in arranging for entry of pregnant Mainland women to Hong Kong. A total of 62 intermediaries had been inspected in the two operations. After preliminary verification, most of these intermediaries had discontinued to operate and 12 of them were suspected of engaging in illegal operation. In the operations, 51 people had been enquired and 25 of them were detained for further investigation. The Immigration Department ("ImmD") and other departments would be committed to taking enforcement and other complementary actions to deter non-local pregnant women from taking the risk of gate-crashing and seeking emergency deliveries at the Accident and Emergency Departments ("A&EDs") of local hospitals.

Right of abode in Hong Kong

2. Referring to the suggestion of some political parties that babies born to non-Hong Kong permanent residents in Hong Kong should not be entitled to Hong Kong permanent resident status ("PRS") and this should be specified on their Certificates of Birth, Dr Margaret NG asked whether such suggestion was practicable. She further enquired about the procedures for birth registration in Hong Kong and whether PRS would be specified on the Certificate of Birth.

3. US for S said that under the Births and Deaths Registration Ordinance (Cap. 174), it was the responsibility of the parents of a child born alive in Hong Kong within 42 days after the day of birth to give information to a registrar of the several particulars required to be registered. A certified copy of the birth entry (commonly known as Certificate of Birth) after registration of the birth would be issued upon payment of a prescribed fee. On birth registration, a child's right of abode ("ROA") in Hong Kong would be stipulated on the Certificate of Birth. To a certain extent, a Certificate of Birth was proof of a person's ROA. He pointed out that a person's entitlement to ROA was governed by the provisions of Article 24(2) of the Basic Law and paragraph 2 of Schedule 1 to the Immigration Ordinance (Cap. 115). Whether a person had ROA in Hong Kong would depend on whether he could satisfy the requirements of the law.

4. Dr Margaret NG asked whether consideration would be given to not confirming a child's ROA on his Certificate of Birth if his parents were not Hong Kong permanent residents.

5. US for S responded that there was no intention to change the existing immigration policy. However, concerns of members of the public in this respect and suggestion would be taken into consideration.

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6. The Deputy Chairman pointed out that there had been a rapid increase in children born to non-Hong Kong permanent residents in recent years. He referred to the view of some members of the public expressed years ago that these children should not be entitled to PRS in Hong Kong. This was in fact the view adopted by the Standing Committee of the National People's Congress. He was of the view that the rapid increase in the number of such children would continue because of the attraction of PRS in Hong Kong. Given the large population in the Mainland, he anticipated that it would create a heavy burden to Hong Kong in various aspects, including the medical system, education and housing. In his view, administrative measures would not be able to tackle the problem at source. Mr LEUNG Yiu-chung shared a similar view. Pointing out that it was hard fact that the problem originated from the Court of Final Appeal's judgment in *Director of Immigration v Chong Fung Yuen*, the Deputy Chairman said that interpretation of Article 24(2)(1) of the Basic Law would help alleviate the pressure on Hong Kong. The Deputy Chairman considered it essential for the Government of the Hong Kong Special Administrative Region ("HKSAR") to collaborate with the Central Authorities to combat the problem as soon as possible.

7. US for S said that the Administration had attached much importance to the issue of children born to non-Hong Kong residents in Hong Kong. The Chief Executive had reflected the issue to the Central Authorities when he was in Beijing and the HKSAR Government had worked with the Mainland authorities to undertake measures to tackle the problem.

8. Mr Paul TSE said that ROA for babies born in Hong Kong was the source of the problem. It was important to seek interpretation of the relevant provision of the Basic Law so as to address the issue of ROA of babies born to pregnant Mainland women whose husbands were non-Hong Kong permanent residents and the issue of ROA of the foreign domestic helpers. He considered it necessary to tackle the problem at source and that the increase in manpower for the implementation of the relevant administrative measures was meaningless and ineffective.

Impact of Individual Visit Scheme

9. The Deputy Chairman referred to the application under the Individual Visit Scheme ("the Scheme") for visit endorsement to Hong Kong. He pointed out that under the Scheme, applicants were required to obtain endorsement from the relevant public security bureau for each visit in the past and the gate-keeping had been effective for preventing pregnant Mainland women from entering Hong Kong. However, after the implementation of the extended Scheme by the Shenzhen Government, Shenzhen residents might

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apply for one-year multiple-entry endorsements for visits to Hong Kong. The Deputy Chairman queried whether there was a large number of pregnant Mainland women taking advantage of the multiple-entry endorsements to come early or for repeated times to Hong Kong and overstay so as to give birth in Hong Kong. Referring to paragraph 6(c) of the Administration's paper that more than 100 overstaying non-local pregnant women giving birth in Hong Kong from October to December 2011, he asked whether the impact of the multiple-entry endorsements for visits to Hong Kong implemented by the Shenzhen Government had been assessed.

10. US for S responded that the implementation of the Scheme was not confined to the Guangdong Province but also applied to a number of cities. There were a considerable number of visitors coming to Hong Kong under the Scheme and different facilitation measures had been introduced by the relevant Mainland authorities for people who hold a valid Exit-Entry Permit for Travelling to and from Hong Kong and Macao (commonly known as Two-way permit) and had previously applied under the Scheme, including application via self-help service and by post. US for S said that he did not have information on hand on the assessment of the impact of the one-year multiple-entry endorsements for visits to Hong Kong by the Shenzhen Government.

11. The Chairman requested the Administration to provide an analysis on the impact of the extended Scheme implemented by the Shenzhen Government in respect of pregnant Mainland women taking advantage of the convenience of multiple-entry arrangement to overstay and give birth in Hong Kong

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)2449/11-12 on 25 June 2012.)

12. Mrs Regina IP referred to the view expressed by Mr Alan LEONG during a debate at a Council meeting that there was an influx of pregnant Mainland women coming to Hong Kong to give birth after the implementation of the Scheme in the Mainland and that different facilitation measures had been introduced by the relevant Mainland authorities. Mrs IP asked whether the Administration agreed to such view and if so, whether the Administration would suggest to the relevant Mainland public security bureau to reduce the facilitation measures and the quota for the Scheme so as to address the problem.

13. US for S disagreed that the influx of the pregnant Mainland women to Hong Kong was related to the implementation of the Scheme. He said that visitors under the Scheme would only be allowed to stay in Hong Kong for

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seven days. If the pregnant Mainland women had to give birth in Hong Kong within a short period of time and there was no prior booking of delivery, the immigration restriction on non-local pregnant women at an advanced stage of pregnancy (i.e. 28 weeks or above) would apply and they would be denied entry. For pregnant Mainland women who had made prior booking of delivery in Hong Kong and had undergone antenatal check-up, they had come to Hong Kong early and their visits were therefore not directly related to the Scheme.

14. Mr Paul TSE was of the view that the influx of pregnant Mainland women to Hong Kong was not related to the Scheme.

Deployment of Health Surveillance Assistants

15. Referring to ImmD's extensive enhanced complementary immigration control measures on non-local pregnant women as stated in paragraph 6 of the Administration's paper, Ms Audrey EU expressed disappointment that no detailed information had been given, including the increase and distribution of the frontline staff and health surveillance assistants ("HSAs") at different boundary control points and the daily service hours of these staff. Mr CHAN Hak-kan shared similar concern.

16. Assistant Director of Immigration (Control) ("Asst Director (Control)") said that there was flexible deployment of manpower at the main control points, including Lo Wu and Lok Ma Chau, to strengthen interception. At Lo Wu Control Point, HSAs would first help identify the non-local pregnant women by visual inspection and would refer the women who were suspected of at an advanced stage of pregnancy to staff of ImmD for further enquiry. At Lok Ma Chau Control Point, staff of ImmD would conduct raids on cross-boundary vehicles.

17. Ms Audrey EU requested the Administration to provide detailed information, including the increase and distribution of the frontline staff and HSAs at different boundary control points, the daily service hours of these staff and an analysis of the increase in percentage of the manpower since December 2011.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)2449/11-12 on 25 June 2012.)

18. Referring to the strengthened surveillance of non-local pregnant women who were at an advanced stage of pregnancy at immigration control points as stated in paragraph 3 of the Administration's paper, Ms Audrey EU was concerned about whether it was solely based on visual inspection. She

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enquired whether consideration had been given to conducting ultra-sound test for verification purpose.

19. Asst Director (Control) responded that pregnancy of women would mainly be identified by HSAs by visual inspection at the initial stage. If there was doubt on the stage of pregnancy, the pregnant women would be referred to the medical officer at the immigration control point for conducting further enquiry and test about the pregnancy, including the measurement of the height of the uterus.

20. Referring to the information on secondary examination on pregnant Mainland visitors as provided in Annex 1 to the Administration's paper, Ms Audrey EU noted with concern that while some 9 600 Mainland women had been intercepted at the control points and some 5 600 had been asked to undergo a secondary examination, only 411 pregnant Mainland women had been repatriated after refusal of entry in the first two months of 2012. She queried whether all other women had been able to produce their booking confirmation certificates issued by local hospitals.

21. Asst Director (Control) responded that the number of interceptions referred to the number of Mainland women who were intercepted and identified by HSAs as pregnant women by visual inspection. When secondary examination was conducted, those women who were able to produce their booking confirmation certificates issued by local hospitals would be allowed to enter Hong Kong and their documents would be stamped with a special chop for identification. When these women came to Hong Kong next time, they would not be required to undergo a secondary examination. Therefore, only those women who were at an advanced stage of pregnancy or an immigration officer had reasonable cause to suspect their purpose of entering Hong Kong would be denied entry. This explained why there was such a great difference between the number of interception and the number of repatriation after refusal of entry.

22. Mr LEUNG Yiu-chung said that basically, HSAs were responsible for the quarantine work, including assessment of the body temperature of visitors, and subsequently they were asked to assist with the assessment of the stage of pregnancy of non-local pregnant women and screening of passengers. However, these HSAs had not received the relevant training on identification of pregnant women who were at an advanced stage of pregnancy. Also, they were not empowered to request the suspected pregnant women to be cooperative during their discharge of duties, including presentation of appropriate documents and not covering their abdomen, in particular when a suspected pregnant woman was sitting in the rear part of a cross-boundary vehicle. Whenever a HSA needed to accompany a suspected pregnant

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woman to go to the immigration office, it would give rise to another problem of shortage of manpower to monitor other incoming pregnant Mainland women. As a result, it would not be effective to deter the influx of pregnant Mainland women giving birth in Hong Kong and the quality of the quarantine work would be undermined.

23. Asst Director (Control) responded that part of the duties of HSAs were to provide assistance in assessing whether the Mainland women were pregnant and they were not required to conduct any check-up. ImmD had liaised with the Department of Health ("DH") in respect of the instructions on duties and power, and briefings would be provided to new recruits of HSAs by their supervisors. Given the heavy daily passenger traffic passing through immigration control points, it would be inevitable that there would be some disputes. HSAs were reminded that they could communicate with staff of ImmD by "walki talki" whenever necessary at busy control points. Should the need arise, staff of ImmD would provide assistance as necessary. In addition, there were posters advising that suspected pregnant women as identified by HSAs would be required to undergo further examination. Regarding inspection of documents, visitors had been advised that it would facilitate streaming visitors with prior booking of delivery and those without prior booking.

24. Mr LEUNG Yiu-chung pointed out that when HSAs requested the presentation of document for identification purpose, it would be at the discretion of the suspected pregnant women to produce the required document or not. Regarding the call for assistance of staff of ImmD by "walki talki", it would take around five to 15 minutes before staff of ImmD could come over to help. Again, there would be a problem of shortage of manpower to monitor other incoming Mainland pregnant women.

25. Asst Director (Control) said that there would be more than one HSA at busy control points. It was true that it would take some time for the staff of ImmD to provide assistance at scene. However, HSAs had been provided with clear instruction that they could hand over the matter to staff of ImmD in case of any disputes with the visitors.

26. The Chairman requested the Administration to provide the following -

- (a) detailed information on HSAs of DH deployed to various immigration control points, including the provision of training, duties and power with particular reference to their assistance with the assessment of the stage of pregnancy and screening of passengers; and

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- (b) information on the deployment of HSAs at different immigration control points and an analysis on whether the discharge of duties in respect of screening of pregnant Mainland women would be affected because of insufficient manpower.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)2449/11-12 on 25 June 2012.)

27. Given that most of HSAs were male, Mr WONG Yuk-man queried how they could handle the emergency situation if the Mainland pregnant women were about to deliver. He further queried that HSAs were not empowered to intercept pregnant women and check their documents, including those on the cross-boundary vehicles.

28. Given that some of the immigration control points operated 24 hours a day, Mr CHAN Hak-kan considered that the additional deployment of 18 HSAs was insufficient for screening the passengers and suggested that assistance be provided by the Auxiliary Medical Service and proper training be provided to its members. Asst Director (Control) responded that the additional deployment of 18 HSAs by DH since February 2012 was part of the enhanced complementary immigration control measures. As a matter of fact, another batch of HSAs had been deployed to assist with the relevant work earlier. He said that the screening of passengers was conducted round-the-clock. ImmD would monitor the effectiveness of the administrative measures and liaise with DH on increasing the relevant manpower as necessary.

Other administrative measures

29. Regarding some 30 000 babies born to Mainland women whose husbands were not permanent residents of Hong Kong in 2011, Mr Albert HO enquired about the number of these Mainland women who had made prior booking of deliveries in private hospitals and those who had overstayed in Hong Kong. Asst Director (Control) responded that there were some 1 000 babies born to Mainland women who had not made prior booking and sought emergency deliveries at A&EDs and the remaining ones had made prior bookings. Among the some 1 000 Mainland women, some of them had applied for extension of stay in Hong Kong but their applications were not necessarily approved. Approval for extension of stay would be subject to the need, including medical advice on the fitness for travel and the need to stay in the hospital. The number of such approval was small.

30. In response to the enquiry of Mr Albert HO and the Chairman about the number of pregnant Mainland women who had overstayed in Hong Kong

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and had been repatriated to the Mainland, Asst Director (Control) said that he did not have the information in hand.

31. Mr Albert HO said that he had received information from several doctors on pregnant Mainland women being allowed to stay in Hong Kong if they could produce a medical certificate certifying that they were at a stage of pregnancy over six months. He expressed concern about the loophole in the immigration policy and asked if such information was correct.

32. Asst Director (Control) responded that pregnant Mainland women would not automatically be allowed to stay in Hong Kong simply because of her pregnancy over six months unless there was medical advice confirming that these women would not be fit for travel. According to record, there were a total of 221 Mainland women whose applications for extension of stay in Hong Kong were successful from October to December 2011. Among these women, 60 of them were in hospital and were ready to give birth, 74 were admitted to hospital and had not been discharged, three of them needed to take care of their sick children in hospital and 84 of them had been advised by their doctor as not fit for travel. US for S added that it would be reasonable that the stay of the last category of Mainland pregnant women be extended as necessary to avoid miscarriage and further extension of stay would need to be reviewed on a need basis.

33. Regarding Mainland pregnant women holding a Two-way permit who had given birth in Hong Kong without prior booking of delivery, Mrs Regina IP enquired whether these Mainland women had been prosecuted for breach of condition of stay. US for S confirmed that pregnant Mainland women giving birth in Hong Kong had not contravened the existing immigration legislation. If the use of forged document was involved, the matter would be handled separately.

34. Referring to the suggestion of the New People's Party that medical endorsement for delivery in Hong Kong be given to pregnant Mainland women whose husbands were Hong Kong permanent residents, Mrs Regina IP asked whether the Administration would agree that such measure would help differentiate these women from those pregnant Mainland women whose husbands were non-Hong Kong permanent residents. US for S responded that the suggestion would be relayed to the Food and Health Bureau ("FHB") for consideration.

35. Mrs Regina IP enquired about the type of visit endorsements for pregnant Mainland women to come to Hong Kong and the duration involved. US for S responded that the endorsements would be given by the relevant Mainland authorities. They would last from seven days to three months for

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visiting relatives, seven days for individual visit and seven to 14 days for business purpose. Asst Director (Control) added that 80% of the pregnant Mainland women were given endorsement for individual visit or group travel and the remaining included endorsement for business purpose and visiting relatives and some used other travel documents, including passports. Mrs IP was of the view that the validity of the visit endorsements should not be so long as to allow pregnant Mainland women to give birth in Hong Kong. There was a lack of proper category of endorsement which could regulate pregnant Mainland women giving birth in Hong Kong. Also, it was a waste of manpower in processing applications made by these women for extension of stay in Hong Kong.

36. Ms Audrey EU was of the view that the gate-keeping was not effective and the increase in pregnant Mainland women giving birth in Hong Kong was clearly related to the Scheme.

37. Asst Director (Control) clarified that those individual visitors with prior booking normally did not need to apply for extension of stay but would give birth within a short period of time after they had come to Hong Kong. For those individual visitors with prior booking and applying for extension of stay for more than three months so as to give birth in Hong Kong, their application would normally not be approved (except those who were close to the due date of delivery) and they would be asked to come to Hong Kong at a later stage.

38. Mr Paul TSE sought information on the following -

- (a) the daily manpower of the relevant departments, including ImmD and DH, devoted to deterring the incoming of the Mainland pregnant women at an advanced stage of pregnancy without prior booking and the relevant expenditure;
- (b) given that the screening of suspected pregnant Mainland women by means of visual inspection or other methods was not entirely successful, whether a large number of pregnant Mainland women had entered Hong Kong; and
- (c) whether reference had been made to the practices of other countries in deterring delivery by non-local pregnant women in their countries.

39. US for S responded as follows -

- (a) the basic duties of staff of ImmD at immigration control points

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were to conduct immigration examination and exercise their statutory power upon arrival of visitors to either allow them to enter Hong Kong or deny their entry. The duties included the screening of pregnant Mainland women at an advanced stage of pregnancy and those without prior booking of delivery in Hong Kong and had not conducted antenatal check-up; and

- (b) overseas countries, including Australia, United States and Mexico, would have their specific immigration control measures to deter the incoming of non-local pregnant women in their countries, including the requirement to produce medical certificate stating that they were fit to travel.

40. The Chairman requested the Administration to provide information on the immigration control measures and arrangements of overseas countries in deterring delivery by non-local pregnant women in their countries.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)2449/11-12 on 25 June 2012.)

41. Mr CHAN Hak-kan was of the view that the Administration should review and monitor the administrative measures in deterring the gate-crashing of the Mainland pregnant women from time to time even though it seemed that the measures were effective at the initial stage. In the long run, the Administration should tackle the root of the problem from the legal aspect. US for S agreed with Mr CHAN that the administrative measures had to be reviewed and monitored as appropriate. He said that analysis had been conducted on the figures of the non-booked cases of the non-local pregnant women giving birth in public hospitals via A&EDs and the Police would conduct relevant operations to address the problem. Asst Director (Control) added that the effectiveness of the administrative measures was monitored daily and a weekly review on the number of "gate-crashing" A&ED cases was conducted. As many pregnant Mainland women came to Hong Kong by means of cross-boundary vehicles, relevant operations were conducted to intercept these women. The number of operations in each month from November 2011 to February (up to 21 February) 2012 was 26, 41, 23 and 31 and the number of pregnant women intercepted without prior booking was 12, 8, 1 and 2 respectively. In addition, there was an analysis on the stage of pregnancy and immigration control points where there was a high risk of a large number of Mainland pregnant women passing through.

42. Mr LEUNG Kwok-hung referred to the indication of the Mainland authorities to address the problem through administrative measures. Given

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the large number of immigration control points, he enquired about the financial implications, including the requirements for additional medical staff. He was of the view that the problem could largely be addressed if pregnant Mainland women were not allowed to make prior booking for delivery in Hong Kong.

43. Ms Audrey EU enquired whether a mechanism was in place to trace Mainland pregnant women who were at an advanced stage of pregnancy after their entry into Hong Kong.

44. Assistant Director of Immigration (Enforcement and Torture Claim Assessment) responded that there was no such trace mechanism but ImmD would conduct joint raids with other departments to deal with overstayers after collecting the relevant intelligence and data. Overstayers, including pregnant Mainland women, would be prosecuted if they contravened the conditions of stay.

45. Mr IP Wai-ming said that the pregnant Mainland women giving birth in Hong Kong had brought about much discontent among the people in the Northern District. Apart from medical service, there was impact on the maternity and child health services and places for primary education. He echoed the view of the Deputy Chairman that it was necessary to address the problem at source. He queried the effectiveness of the administrative measures in deterring the influx of pregnant Mainland women giving birth in Hong Kong. Noting that there was an indication in the Mainland to address the problem through administrative means, he enquired about the progress of the discussion between the HKSAR Government and the relevant Mainland authorities in this respect.

46. US for S responded that concerns of members of the public over the issue were noted by the Administration and suggestions for tackling the problem would be taken into consideration. He reiterated that the Chief Executive had reflected the issue to the Central Authorities when he was in Beijing. Both the Mainland authorities and the HKSAR Government were committed to tackling the problem. He further referred to the two large-scale inspections in February 2012 relating to the intermediaries conducted by the enforcement authority of the Guangdong Province.

47. Mr IP Wai-ming remarked that pregnant Mainland women giving birth in Hong Kong had actually contravened the endorsement given to them for the purpose of travel. He urged the Administration to liaise with the relevant Mainland authorities for introducing a separate category to cater for these cases and giving endorsements subject to production of sufficient supporting documents. US for S responded that currently, a visitor giving birth in Hong

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Kong would not be in breach of the existing law in Hong Kong. As for the various visit endorsements given by the Mainland authorities, there was no restriction against holders of the endorsements coming to Hong Kong to give birth. The complexity of the problem was noted and the Administration would continue with the enhanced complementary immigration control measures on non-local pregnant women and make improvements where necessary.

48. Mr IP Wai-ming further enquired whether there would be immigration restriction on those pregnant Mainland women who had gate-crashed to seek emergency deliveries at A&EDs when they re-entered Hong Kong. Asst Director (Control) said that the record of gate-crashing of those pregnant Mainland women would be taken into consideration when they entered Hong Kong in future.

49. Referring to the non-booked cases of non-local pregnant women giving birth in public hospitals via A&EDs in July 2011 and February 2012 as provided in Annex 3 to the Administration's paper, Mr WONG Yuk-man queried the effectiveness of the administrative measures in deterring the influx of the pregnant Mainland women without prior booking to give birth in Hong Kong.

50. Mr WONG Yuk-man pointed out that while there were cases of the Mainland middlemen being sentenced to imprisonment in Hong Kong because of breach of conditions of stay and false representation, there was a lack of enforcement actions against local intermediaries. He informed members that a proposal to introduce legislative amendments to the relevant ordinance to address the problem of influx of expectant Mainland women whose spouses were non-Hong Kong permanent residents would be submitted to the President of the Legislative Council for consideration.

(As the Chairman had another important appointment, the Deputy Chairman took the chair.)

Differentiation of pregnant Mainland women

51. Ms Audrey EU enquired whether it would be possible to differentiate pregnant Mainland women whose husbands were Hong Kong permanent residents and those whose husbands were non-Hong Kong residents. Asst Director (Control) said that according to the existing immigration policy, non-local pregnant women might be denied entry if they could not produce a booking certificate, regardless of whether their spouse were Hong Kong permanent residents or non-Hong Kong permanent residents.

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52. Ms Audrey EU was of the view that there was a common understanding in the community that pregnant Mainland women whose husbands were Hong Kong permanent residents should be differentiated from those whose husbands were non-Hong Kong permanent residents. She believed that such core issue could properly be addressed if the Administration implemented a differentiation policy. She said that there was a strong view in the community that the quota for places of delivery in Hong Kong should be zero for pregnant Mainland women whose husbands were non-Hong Kong permanent residents.

53. Ms Cyd HO held the view that the number of pregnant Mainland women without prior bookings and seeking emergency deliveries at A&EDs was not that great and the impact on the population in Hong Kong actually derived from some 31 000 pregnant Mainland women with bookings at private hospitals. Ms HO supported that there should be immigration restriction on the pregnant Mainland women whose husbands were non-Hong Kong residents and who were holders of Two-way permits and had been given endorsements for visiting relatives but instead given birth in Hong Kong. She sought information on the number of these women.

54. Asst Director (Control) said that he did not have specific information on the number of pregnant Mainland women who had been denied entry on the basis of the category of the visit endorsement. However, according to record, 1 415 women who were at an advanced stage of pregnancy had been denied entry and 516 women at a stage of pregnancy below 28 weeks had been denied entry for the year 2011.

55. Ms Cyd HO expressed the view that the pregnant Mainland women whose spouses were Hong Kong permanent residents and were at an advanced stage of pregnancy should be allowed to come to Hong Kong to deliver. To her knowledge, it would take two to three years for the babies born to these women in the Mainland to successfully apply for one-way permit ("OWP") to come to Hong Kong. She considered that such policy was unacceptable and was detrimental to family union. She urged the Administration to liaise with the relevant Mainland authorities with a view to expediting the process for the application of OWP.

56. The Chairman requested the Administration to provide information on the processing time for persons who were born in the Mainland to Hong Kong permanent residents applying in the Mainland for OWP and a Certificate of Entitlement in order to come to Hong Kong for settlement.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)2449/11-12 on 25 June 2012.)

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57. Ms Cyd HO enquired about the possibility of changing the immigration policy so as to allow pregnant Mainland women whose spouses were Hong Kong permanent residents to give birth in Hong Kong. US for S explained that the existing policy was to ensure that local pregnant women were given priority for proper obstetric service. For non-local pregnant women, they were required to have secured a booking of delivery and had conducted antenatal check-up in Hong Kong so as to reduce the potential risk.

58. Mr WONG Yuk-man considered it necessary to introduce a policy to differentiate those Mainland pregnant women whose spouses were Hong Kong permanent residents and those whose spouses were non-Hong Kong permanent residents. He referred to an appeal case in the Court of Final Appeal regarding the obstetrics fees for a Mainland woman whose husband was a Hong Kong permanent resident. He considered that it was a kind of discrimination against the Mainland women whose husbands were Hong Kong permanent residents as they did not enjoy the same medical benefits as Hong Kong residents.

59. The Chairman asked whether priority would be given to pregnant Mainland women whose spouses were Hong Kong permanent residents to make booking of delivery at local public hospitals.

60. US for S said that the relevant policy was under the purview of FHB and another Panel would discuss the subject at a meeting scheduled for the week that followed. The Chairman added that there should be coordination among the relevant bureaux/departments in respect of the relevant policy.

61. Mr LEE Cheuk-yan expressed support for allowing pregnant Mainland women whose husbands were Hong Kong permanent residents to give birth at the public hospitals in Hong Kong. Assuming that the differentiation policy was to be introduced and pregnant Mainland women whose spouses were Hong Kong permanent residents were allowed to give birth at public hospitals in Hong Kong and on the condition that there were sufficient delivery places for both local and these pregnant women, Mr LEE asked whether there would be corresponding immigration policy to cater for the change. US for S confirmed that the existing immigration policy would allow such women to give birth in Hong Kong if they could produce booking confirmation certificates issued by local hospitals.

62. Mr LEE Cheuk-yan considered that it was an unhealthy development that the obstetric services were predominated by private hospitals. He asked whether it was possible to implement immigration control measures to deter the influx of Mainland pregnant women from giving birth in Hong Kong, regardless of whether prior bookings of delivery at private hospitals had been

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made. US for S advised that the immigration policy could not contravene the medical and health policy. The two policies needed to complement each other.

Other issues

63. The Deputy Chairman said that there were media reports on the swapping of Mainland babies not born in Hong Kong but being brought to Hong Kong to seek pediatric services. Given the difficulties in identifying babies below one year of age, the Deputy Chairman enquired about the ImmD's gate-keeping measures in this aspect. He anticipated that the pediatric services would be heavily stricken following the obstetric services if the gate-keeping measures were ineffective.

64. US for S stressed that when entering or departing Hong Kong, all people would be required to undergo immigration procedures regardless of whether they were adults or children. While adults might make use of the self-service immigration clearance, adults with children were required to go through the traditional immigration counters and to present two travel documents of the children, namely, the HKSAR Re-entry Permit and the Mainland Travel Permit for Hong Kong and Macau Residents and therefore there would be in effect two levels of security. While agreeing that it would be difficult to identify the babies, he stressed that a person taking a baby to enter Hong Kong by using travel documents belonging to another person for the purpose of medical consultation would commit serious criminal offences, including assisting in the use of forged documents, false representation and deception. US for S believed that there would not be a large number of people who would take such risk to commit the criminal offences.

65. In response to the Deputy Chairman's enquiry about whether the fingerprint of babies would be taken, US for S replied in the negative as their fingerprints were not well-developed.

66. Given the difficulties in differentiating the babies and confirming their identities, Mr Paul TSE considered it a waste of manpower to handle cases relating to swapping of babies for the purpose of seeking medical services in Hong Kong.

67. There being no other business, the meeting ended at 12:45 pm.