

立法會
Legislative Council

LC Paper No. CB(2)2851/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Wednesday, 4 July 2012, at 8:00 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)
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
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 Cyd HO Sau-lan
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
- Members attending** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
- Members absent** : Hon Albert HO Chun-yan
Dr Hon Philip WONG Yu-hong, GBS
Hon CHIM Pui-chung

**Public Officers : Item III
attending**

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

Ms CHANG King-yiu, JP
Permanent Secretary for Security

Ms Carol YIP Man-kuen, JP
Deputy Secretary for Security (1)

Miss Shirley YUNG Pui-man
Deputy Secretary for Security (2)

Ms Maggie WONG Siu-chu
Deputy Secretary for Security (3)

Mrs Erika HUI LAM Yin-ming, JP
Commissioner for Narcotics
Security Bureau

Item IV

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

Miss Shirley YUNG Pui-man
Deputy Secretary for Security (2)

Mr YEUNG Sai-him, FSMSM
Assistant Director (Ambulance)
Fire Services Department

Mr CHENG Sui-on
Divisional Officer (Planning Group) 2 (Acting)
Fire Services Department

Mr YIU Wai-keung
Chief Project Manager 203
Architectural Services Department

Item V

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

Miss Shirley YUNG Pui-man
Deputy Secretary for Security (2)

Mr Andy YEUNG Yan-kin
Assistant Secretary for Security

Ms Eunice CHAN Hau-man
Assistant Secretary for Security

Mr Edwin LAI
Assistant Director (Radiation Monitoring and Assessment) (Acting)
Hong Kong Observatory

Mr K M CHAN
Chief Chemist
Water Supplies Department

Item VI

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

Mrs Millie NG KIANG Mei-nei
Principal Assistant Secretary for Security

Ms Winnie CHIU Wai-yin
Assistant Commissioner of Police (Support)
Hong Kong Police Force

Mr Thomas WONG Kin-ye
Superintendent (Licensing)
Hong Kong Police Force

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

Staff in attendance : Ms Connie FUNG
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. Confirmation of minutes of previous meeting

(LC Paper No. CB(2)2444/11-12)

The minutes of the meeting held on 13 March 2012 were confirmed.

II. Information paper(s) issued since the last meeting

(LC Paper Nos. CB(2)2452/11-12(01) and (02), CB(2)2326/11-12(01) and CB(2)2282/11-12(01) and (02))

2. Members noted that the following papers had been issued since the last meeting -

- (a) Paper entitled "An outline of the topics in the third report of the Hong Kong Special Administrative Region under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" provided by the Administration;
- (b) Paper entitled "Service Enhancement Initiatives on the Automated Passenger Clearance System (e-Channel)" provided by the Administration;
- (c) Letter from the Chairman of the Hong Kong Fire Services Department Staffs General Association to the Secretary for Security regarding an invitation to a meeting on the weekly working hours of firemen (operation);
- (d) Referral from the Subcommittee on Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012 relating to the mechanism to designate organizations as public bodies under the Ordinance; and
- (e) Referral from the Public Complaints Office of the Legislative Council Secretariat regarding security matters relating to small houses in the New Territories.

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III. Briefing by the Secretary for Security on the Secretary's work plan for the year ahead

(LC Paper No. CB(2)2485/11-12(01))

Briefing by the Administration

3. Secretary for Security ("S for S") briefed members on his work plan for the year ahead, details of which were set out in the Administration's paper.

Pregnant Mainland women giving birth in Hong Kong

4. Referring to paragraph 6 of the Administration's paper, Ms Audrey EU pointed out that there were still cases of pregnant Mainland women (without obstetric booking) gate-crashing Accident and Emergency Departments ("A&ED") of local hospitals even though the number of cases had dropped from 2012. She asked whether a review had been conducted on the gate-crashing cases, including the identity of the pregnant Mainland women (i.e. whether their husbands were Hong Kong permanent residents), the control points where these pregnant Mainland women had successfully passed through and the loopholes involved, and whether more manpower needed to be deployed to tackle the problem.

5. S for S responded as follows -

(a) under the existing mechanism, non-local pregnant women suspected of having an advanced stage of pregnancy (i.e. having been pregnant for 28 weeks or above) might be denied entry if they could not produce their booking confirmation certificates issued by local hospitals, regardless of whether their husbands were Hong Kong permanent residents, or whether they came from the Mainland or overseas countries. Information on the number of pregnant Mainland women whose husbands were Hong Kong permanent residents and those who were non-Hong Kong residents would be provided later;

(b) according to the record of gate-crashing cases, 40% of the pregnant Mainland women concerned had overstayed in Hong Kong in the second half of 2011 and the percentage had increased to 50% in January 2012 and 70% in April/May 2012. It indicated that the pregnant Mainland women had come to Hong Kong earlier than their 28 weeks of pregnancy and sought emergency admissions through A&EDs shortly before labour. In terms of number of cases, 52 pregnant Mainland women were found to have overstayed in April 2012. Given the heavy flow

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of Mainland visitors at the boundary control points each day and the frontline officers had to screen the visitors by visual inspection, such minimal number was considered acceptable; and

- (c) the pregnant Mainland women mainly came to Hong Kong via the land boundary control points. In 2011, there were about 40% to 50% of pregnant Mainland women taking the cross-boundary vehicles and successfully sought emergency admissions through A&EDs. Corresponding measures had been implemented to combat these gate-crashing attempts which were as a result reduced to less than 10% in April/May 2012. There were only three gate-crashing cases in May 2012. The enhanced collaboration and enforcement actions of the Administration and the relevant Mainland authorities had proven to be effective. As informed by the relevant Mainland authorities, most of the intermediaries which had been involved in illicit activities in arranging for entry of pregnant Mainland women to Hong Kong had ceased to operate on the internet. Operation of these intermediaries in other modes would continue to be monitored. The Administration would make every endeavour to combat the gate-crashing attempts under the statutory framework.

6. Mr WONG Yung-kan enquired whether there was a reduction in the number of pregnant Mainland women giving birth in Hong Kong after the Chief Executive ("CE"), Mr LEUNG Chun-ying's, announcement of a "zero quota" earlier for private hospitals in Hong Kong to accept pregnant Mainland women whose husbands were not Hong Kong residents starting from 2013 and that there would be no guarantee for the children of these pregnant Mainland women born in Hong Kong to have the right of abode. Referring to cases of pregnant Mainland women having come early to Hong Kong and hiding themselves until seeking emergency admissions through A&EDs shortly before labour, Mr WONG further asked how the Administration would tackle the problem, and whether there was any collaboration with relevant Mainland authorities.

7. S for S replied in the positive in respect of the reduction in the number of pregnant Mainland women giving birth in Hong Kong. In particular, the gate-crashing of A&EDs cases had dropped from 150 cases per month during the peak period in 2011 to 45 cases in May 2012, representing a two-third reduction. As many of these pregnant Mainland women were overstaying in Hong Kong, relevant law enforcement agencies would conduct investigation on licensed or unlicensed hostels at which pregnant Mainland women were put up. In accordance with the law, pregnant Mainland women who had

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overstayed would be prosecuted and repatriated to the Mainland. A collaboration and communication mechanism between the relevant authorities in the Mainland and Hong Kong concerning this subject was already in place.

Freedom of the press

8. Mr LEUNG Kwok-hung referred to an incident in which a Police officer had taken away a reporter for a 15-minute enquiry when the reporter asked President HU Jintao a question at the cruise terminal site in Kowloon Bay on 30 June 2012 ("the Cruise Terminal incident"). Mr LEUNG considered that it had seriously contravened the freedom of the press.

9. S for S responded that so far, the Police had received two complaints on the incident which would be handled in accordance with the police complaints system. The Police had issued a statement on the same day expressing regret over the incident which had aroused grave concerns from the media. Investigation into the complaints was being carried out and the wrongdoing of the officer concerned if so confirmed would be handled in an impartial manner.

10. Mr LEUNG Kwok-hung held the view that the Commissioner of Police ("CP") should be held accountable for the incident. S for S said that investigation into the incident should be conducted in accordance with the police complaints system and the investigation results would be reviewed by the Independent Police Complaints Council ("IPCC"). As IPCC was empowered to monitor the practices and procedures adopted by the Police, it would formulate a view on the case (including whether any wrongdoing of the Police officer was involved) in due course. It was therefore inappropriate for him to comment on the incident at this stage.

11. Mr CHEUNG Man-kwong referred to the visit of the Vice-Premier Mr LI Keqiang in August 2011 during which a reporter and a cameraman of NowTV were obstructed by Police officers when they filmed the removal of a male wearing "June 4th" T-shirt by a number of males at Laguna City on 16 August 2011. He said that the relevant complaint was substantiated and the explanation of a "black object" was not accepted. Further referring to the Cruise Terminal incident, Mr CHEUNG considered that there was obstruction to media reporting on the "June 4th" incident in both incidents. He queried whether media reporting was respected and how it could be protected.

12. S for S responded that the freedom of the press was one of the core values of Hong Kong. There were clear guidelines for Police officers to

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maintain public order in discharging their duties during the Cruise Terminal incident. He said that it was an isolated incident and that the Police had met with the representatives of several journalist associations on 3 July 2012 on the incident. There was room for improvement as to how media reporting could be facilitated in view of the two incidents. He stressed that facilitating media reporting was a common goal of both the Police and the media and the Police would maintain continued communication with the media in the process.

13. Mr CHEUNG Man-kwong disagreed that the Cruise Terminal incident was an isolated incident but considered it as a policy on restricting media reporting on sensitive issues. He remarked that there was hindrance to media reporting whenever questions about "Redress June 4th" were raised or being covered by the media during the visit of State leaders in Hong Kong. The Police had made every effort to ensure that relevant demonstrations were not seen by the State leaders.

14. S for S responded that the Police would not suppress the expression of views on any sensitive subjects. As a relevant complaint about the Cruise Terminal incident had been lodged with the Complaints Against Police Office ("CAPO"), it would not be appropriate for him to comment at this stage.

15. The Chairman asked whether S for S would apologize on behalf of the Government, having regard to the grave concerns of members of the public about the Cruise Terminal incident.

16. S for S said that he understood the concerns of members of the public. It was the responsibility of reporters to raise questions and the Government would provide full assistance as far as possible. The Police had expressed regret over the incident and the internal investigation results on the incident would be made public in due course.

17. The Chairman further enquired whether S for S or CP would apologize if the wrongdoing of the Police officer concerned was confirmed after the investigation. Given that the investigation would take time, Mr WONG Yung-kan said that subject to the outcome of the investigation, it would be at the discretion of the Government to make an apology.

18. Mr CHEUNG Man-kwong pointed out that it was a matter of policy relating to the freedom of the press. Mr CHEUNG held the view that as a principal official under the accountability system, S for S should make a fair judgement on the Cruise Terminal incident and should not cover up the

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mistake of CP and his subordinates or refrain from making comments. He considered that such response was a kind of hindrance to media reporting.

19. S for S responded that the Police had clear internal guidelines for handling the media and that there was no internal order to prohibit press coverage on sensitive issues. The Police had indicated on the day of the incident that an internal investigation would be conducted. Also, the Police had received two complaints on the incident and CAPO would investigate the complaints in accordance with the existing police complaints system. CAPO's investigation results would be reviewed by IPCC and would be made public. It was not appropriate to draw any conclusion before the findings of the investigation were available. S for S reiterated the Government's determination to safeguard the freedom of the press.

Cross-boundary students

20. Mr WONG Yung-kan expressed concern about the increasing number of cross-boundary students travelling from Shenzhen to attend schools in Hong Kong. He asked whether consideration would be given to issuing more permits to cross-boundary school coach operators for provision of door-to-door transportation service for these students.

21. S for S provided the background for cross-boundary students and said that there was potential risk for cross-boundary students to travel daily between Hong Kong and the Mainland to attend schools. He and staff of the Education Bureau paid a visit to Shenzhen earlier to study the issue with the relevant authorities in the Mainland. It was subsequently decided that lay-by areas be reserved for nanny buses carrying cross-boundary students at Futian Checkpoint and Lo Wu Control Point to facilitate the students to walk to the control points without crossing the roads. It was expected that the more senior students among some 10 000 cross-boundary students could go through immigration clearance by themselves. In the 2012-2013 school year, the Government would implement on-board clearance services to cross-boundary students at Lok Ma Chau (Huanggang) on a trial basis. Students could stay on board to wait for passenger clearance to be performed by relevant immigration staff on the coach. Also, the number of parking spaces for the cross-boundary coaches at Lok Ma Chau Spur Line would increase from five to seven in September 2012, representing a 40% increase, and there would be further increase in future. It was hoped that the measures would help ensure the safety of the cross-boundary students.

Closed Area Permit

22. Mr WONG Yung-kan referred to the difficulties in applying for the

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Closed Area Permit for entering Sha Tau Kok following the reduction of the Frontier Closed Area. He enquired whether consideration would be given to introducing measures to facilitate relatives or friends of residents in the Frontier Closed Area to apply for visitor permits and the timetable for the implementation.

23. S for S said that the suggestion would be relayed to the Police for consideration and relevant representatives would be invited to exchange views as necessary.

IV. Construction of a new ambulance depot at Choi Shun Street, Sheung Shui

(LC Paper No. CB(2)2452/11-12(03))

24. S for S briefed members on the proposal to construct an ambulance depot at Choi Shun Street, Sheung Shui for the Fire Services Department ("FSD"), details of which were set out in the Administration's paper.

25. Mr WONG Yung-kan expressed support for the proposal. In view of the rapid development in the North District and the increasing population in the area, Mr WONG enquired whether the proposal had catered for the need of expansion beyond 2016.

26. Assistant Director (Ambulance) of FSD ("AD (Ambulance)") responded that the proposal had taken into account the development of the district and its population. The ambulance depot at Choi Shun Street would be a large one with 12 parking spaces for emergency ambulance service vehicles, which were expected to accommodate nine ambulances, one mobile casualty treatment centre, one rapid response vehicle and one emergency medical assistant motorcycle.

27. Referring to the strategic location of the ambulance depot as stated in paragraph 5 of the Administration's paper, the Chairman enquired whether it had taken into consideration the increasing population at specific surrounding areas as planned and whether the pledge for emergency ambulance service could be met.

28. AD (Ambulance) responded that the planning of the new ambulance depot was based on the information provided by the Planning Department. The service coverage of the new ambulance depot at Choi Shun Street would not be confined to Sheung Shui and Fanling, but would cover the entire North District. According to population distribution projections by the Planning Department, the population aged over 60 in Sheung Shui and Fanling was

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projected to increase substantially by around 37 % from 36 900 to 50 400 between 2011 and 2016, which would be higher than the overall growth rate of the elderly population in Hong Kong of about 24 % in the same period. It was expected that the need for emergency ambulance services would correspondingly increase. Regarding the location of the ambulance depot, consideration had been given to the distribution of the population, transportation network and future development. It was the most appropriate land lot on the basis of meeting the 12-minute service pledge.

29. The Chairman concluded that members supported in principle the submission by the Administration of its proposal for the development project to the Public Works Subcommittee.

V. Daya Bay Contingency Plan - Exercise Checkerboard
(LC Paper Nos. CB(2)2452/11-12(04) and (05))

30. S for S briefed members on the outcome of the Exercise Checkerboard, which was held in late April 2012 to test out the revised Daya Bay Contingency Plan ("DBCP"), and the way forward as detailed in the Administration's paper.

31. Dr PAN Pey-chyou considered it reasonable to conceive a major nuclear emergency coupled with an incidental natural disaster in the revised DBCP. He enquired about the rationale behind for simulating landslide in Sai Kung as the natural disaster and how it could be related to the occurrence of a nuclear accident at the Guangdong Daya Bay Nuclear Power Station ("DBNPS").

32. Deputy Secretary for Security ("DS for S") explained that in the light of most of the nuclear accidents being associated with natural disasters, it was therefore decided to test the capabilities of the Government to execute DBCP and contingency plan for natural disasters simultaneously. The design of landslide in Sai Kung was to address the concerns of members of the Panel and members of the public that the coverage of emergency planning zone 1 ("EPZ1") should be extended beyond 20 km. As Sai Kung was about 30 km from Daya Bay, the capabilities and preparedness of the Government to respond simultaneously to natural disasters involving evacuation of people in areas beyond 20 km of Daya Bay could be tested.

33. Dr PAN Pey-chyou referred to public concerns about attack from terrorists, and asked whether the concerns had been taken into consideration in working out the revised DBCP and the rationale behind. In his view, the nuclear facilities were fragile and the consequence of damage could be very

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serious in case of a terrorist attack. There was therefore a pressing need to test the relevant contingency plan.

34. S for S recalled that large-scale anti-terrorist attack exercises involving the use of bioweapons had been conducted before the 2008 Hong Kong Olympic Equestrian Events and Hong Kong 2009 East Asian Games. The exercise would be conducted again at an appropriate time to ensure the Government's capabilities and preparedness for terrorist attack.

35. The Deputy Chairman considered it important to inform members of the public in advance the conduct of the DBCP exercise. He enquired whether it was an international practice to test the preparedness of the contingency plan or part of the contingency plan without informing members of the public so as to enhance the authenticity of the exercise.

36. S for S responded that as an international practice, members of the public would be informed to a certain extent about the exercise of a nuclear contingency plan. Otherwise, it would arouse panic of the general public and affect their normal life. Participants of the Exercise Checkerboard had been informed of the dates for the exercise. However, only staff responsible for the design of the exercise knew the details but not participants of the exercise. These included the scale and seriousness of the nuclear event, development of the event and the points requiring emergency response. In addition, several staff members from other disciplined forces had acted as internal observers to monitor the dissemination of the relevant news. As reported by the media, a number of areas requiring improvements had been identified. The relevant departments would take follow-up actions so as to further enhance the nuclear emergency preparedness, which was the objective of the exercise.

37. Referring to the boundary control monitoring and screening of inbound vehicles and travellers in the event of a nuclear accident at DBNPS as stated in paragraph 18(v) of the Administration's paper, the Deputy Chairman asked whether there was assessment of the impact on the control points. He further asked whether there was monitoring and screening of outbound vehicles and whether there was any collaboration between Hong Kong and the relevant Mainland authorities in this aspect.

38. DS for S responded that according to the World Health Organization, the contamination caused by radiation was different from that caused by infectious disease. It was not contagious and would reduce over time. According to the views of nuclear experts, a radiation contaminated person would not constitute any harm to other people. Therefore, it would not be necessary to implement compulsory boundary control measures to test the radiation level of goods and people unless advised by the World Health

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Organization. However, having regard to the concern about health risk, Monitoring Centres would be set up to provide quick radiation scanning service in the revised DBCP, if necessary. Specific measures would be introduced if the volume of the flow of people and goods was great. Regarding boundary control, a notification mechanism was in place to maintain the communication with the relevant Mainland authorities. Should there be a nuclear accident, close liaison would be maintained and corresponding arrangements would be made in consideration of the circumstances.

39. The Deputy Chairman suggested that close collaboration on immigration control between Hong Kong and the relevant Mainland authorities should be included in future exercise.

40. S for S responded that there was a long-term plan to conduct a large-scale DBCP exercise involving the participation of the relevant emergency response centre in the Guangdong Province and DBNPS so as to identify areas for improvement.

41. Dr Raymond HO declared that he was the Chairman of the Guangdong Daya Bay Nuclear Plant and Lingao Nuclear Plant Safety Consultative Committee. He said that there were improvements to the revised DBCP exercise which was of a greater scale as compared with the previous ones. In his view, the simulation of landslide in Sai Kung in the outbreak of a nuclear event was of a small scale. He suggested that consideration be given to simulating natural disasters which would be more serious. He further suggested that reference be made to the exercises held in the Mirs Bay, which involved wider participation, distribution of thyroid tablets and arrangement of transportation.

42. S for S responded that lesson had been learnt from the Fukushima nuclear power plant incident in Japan in 2011 and consideration would be given to include duplicated disasters in the review of the DBCP exercise. He understood that exercise of contingency plan was conducted regularly in Daya Bay and that Security Bureau had maintained communication with the senior management of DBNPS. While the persons-in-charge of nuclear incidents at DBNPS had been invited to be observers and give views on the Exercise Checkerboard, request had been made to observe the contingency plan exercise to be conducted in Daya Bay.

43. S for S said that the Administration had maintained liaison with the National Nuclear Safety Administration and made reference to the information provided by the National Nuclear Safety Administration in the Exercise Checkerboard. Improvements would be made to the revised DBCP

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where necessary.

44. The Chairman shared the view of Dr Raymond HO. Noting that the simulation exercise held 10 years ago was also of a Level 5 nuclear incident, he enquired about the rationale for not simulating a nuclear incident of a higher level.

45. DS for S explained that a nuclear incident of Level 5 was a severe accident with wider consequences according to the International Nuclear Event Scale. Given that the most serious nuclear accident with a pressurized water reactor, similar to those of DBNPS, that had ever taken place was of Level 5 (i.e. the Three Mile Island accident), the design of the simulation scenario was also based on a Level 5 incident. The revised DBCP would be activated whenever there was release of radioactive material from DBNPS.

46. The Chairman held the view that consideration should be given to simulating a higher level incident when the exercise was held next time so as to prepare for the worse scenario. He expected that more people should be involved in the evacuation.

47. The Deputy Chairman considered it impractical that a simulated Level 5 incident with wider consequences would only be confined to the evacuation of people in Tung Ping Chau but not involving people in Tai Po, Shatin, Ma On Shan and Sai Kung, given the geographical features and high population density in Hong Kong.

48. S for S responded that the simulation exercise had focused on the coverage of EPZ1 of 20 km. Coupled with a natural disaster (i.e. landslide in Sai Kung), sheltering had been arranged for three schools in Tai Po as a plume countermeasure and evacuation of people had been arranged for areas between 20 km and 30 km. Whether the coverage should be further extended would be reviewed.

49. In response to the Deputy Chairman's enquiry about the circumstances under which CE would start to play a decisive role in the revised DBCP, S for S said that it would be subject to the seriousness of a nuclear incident. Whenever it was necessary to make a major decision, relevant information would be collected and a recommendation would be formulated for consideration by CE's Steering Group. He cited an example of a Level 5 nuclear incident in which CE's Steering Group needed to make decision on the preventive evacuation of people in Tung Ping Chau before the arrival of nuclear plume.

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50. The Chairman considered it important to involve CE in the simulation exercise in future since he would be responsible for making major decision at critical points. As the term of office of CE was five years, he suggested that the cycle of conducting the exercise be adjusted so that CE could be involved in the simulation exercise in the early years of his term of office.

51. S for S responded that the next large-scale exercise would be conducted within three to five years following the review of the exercise for the revised DBCP, and reference would be made to the guidelines provided by the International Atomic Energy Agency. It was planned that CE could also participate in the next exercise.

VI. Police's crowd control arrangements in relation to public meetings and public processions

(LC Paper Nos. CB(2)2452/11-12(06) and (07))

The Cruise Terminal incident

52. Ms Cyd HO considered that there was suppression of freedom of speech and media reporting in the Cruise Terminal incident. Ms HO enquired about the time required for the investigation on the incident and the follow-up actions to be taken, including the penalty for the wrongdoing of the Police officer concerned if so confirmed.

53. Assistant Commissioner of Police (Support) of the Hong Kong Police Force ("ACP(SUP)) responded that the Police had received two complaints on the incident. CAPO would conduct investigation in accordance with the police complaints system. Any non-compliance of the police officer concerned if so confirmed would be handled in an impartial manner and disciplinary hearing would be conducted. She stressed that frontline officers faced difficulties in discharging their duties and there was great pressure for the frontline officers to make immediate responses at the scene.

54. Mr WONG Kwok-kin urged that the investigation results of the Cruise Terminal incident should be made available as soon as possible.

Use of pepper spray/water barriers

55. Mr LEUNG Kwok-hung expressed grave concerns about the Police's use of huge water barriers and large canister Oleoresin Capsicum Foam (commonly known as pepper spray) to control demonstrators during the visit of President Hu Jintao to Hong Kong in June/July 2012. He was concerned whether the dosage of the pepper spray complied with the international

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practice. Also, he was of the view that the pepper spray had been wrongly used and had hurt the body of the demonstrators.

56. Mr LEE Cheuk-yan expressed grave concerns about the Police's attempts to obstruct President HU Jintao from seeing people's reaction towards the case of LI Wang-yang and the request for redressing the "June 4th" incident. He held the view that the Police had made a number of mistakes in the handling of the visit of the President, including the following

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- (a) the setting up of security zones arbitrarily had deprived people's right of demonstration;
- (b) the use of large canister pepper spray which was much more powerful than the one used before;
- (c) the suppression of right of media reporting;
- (d) the obstruction of the Hong Kong Alliance In Support of Patriotic Democratic Movements in China's ("the Alliance") submission of petition letter to the Hong Kong and Macao Affairs Office on 30 June 2012; and
- (e) the confusion caused during the demonstration on 1 July 2012.

57. S for S responded that organizer of the public meetings and processions on 30 June 2012 had objected to the setting up of security zones. After a public hearing of the statutory Appeal Board on Public Meetings and Processions, the Appeal Board decided that designated demonstration area should be set up. Both demonstrators and the Police should respect the Appeal Board's decision.

58. ACP(SUP) said that it was not the first time that the large canister of pepper spray was used. The level of force and ingredients of the large canisters of pepper spray were the same as those of the small ones. The only difference was the volume of pepper spray contained therein. After having achieved the objective of stopping the violent behaviour of demonstrators, the Police had stopped using pepper spray.

59. Mr LEE Cheuk-yan enquired whether there were guidelines that the large canister pepper spray should only be sprayed from a distance of three metres and whether it would cause harm to human if it was sprayed from a distance of less than three metres. He further asked whether the concentration level of ingredients of the large and small canisters were the

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same. ACP(SUP) responded that the concentration levels at 10% were the same. The large canister pepper spray would be effective within a range of five metres and would not cause harm. The guidelines for using large and small canisters of pepper spray were the same.

60. In response to the Chairman's enquiry, ACP(SUP) confirmed that the volume of each spray of the large canister of pepper spray was greater than that of the small canister of pepper spray.

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61. The Chairman and Mr LEE Cheuk-yan requested the Administration to provide the specifications of the large canister of pepper spray for members' reference. ACP(SUP) responded that the details of pepper spray could not be disclosed as it was one of the different levels of weapon used by the Police. Nevertheless, S for S and ACP(SUP) said that the Police would consider the request.

62. Mr CHEUNG Man-kwong commented on the Police's use of large canister pepper spray and water barriers. He found it unacceptable that in the absence of immediate danger to the Police officers, pepper spray was sprayed into the eyes of demonstrators behind the water barriers through the slits. It was obvious that the distance was less than three metres. He considered that such use of force was unnecessary.

63. ACP(SUP) said that concerns of Members and members of the public were understood. The Police did not wish to set up water barriers beside the demonstration areas, however, the Police had the responsibility to protect the personal safety of political dignitaries visiting Hong Kong. It was necessary to conduct professional risk assessment according to the latest international situation and past experience in similar operations and to deploy manpower for security arrangements. Water barriers, which had previously been used on a number of occasions, were one of the measures being used. The Police had set up water barriers and mills barriers in view of the risk assessment. As a matter of fact, a lot of demonstrators tried to topple the water barriers and snatched the mills barriers with the intention to rush to Harbour Road and cause confusion. This constituted a serious threat to the personal safety of people at scene, including demonstrators, Police officers and reporters.

64. Mr CHEUNG Man-kwong said that it would be impossible for the demonstrators to charge the Police officers behind the water barriers. In his view, the Police officers had used excessive force.

65. The Chairman enquired about the police officer who made the decision to use strong pepper spray under that situation. ACP(SUP) said that as a result of charging by a large number of demonstrators, the water barriers had

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inclined and the Police officers behind had to use their body to counterbalance the water barriers to prevent them from falling down.

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66. The Chairman enquired about the specification of the water barriers. He requested the Administration to provide a report on the force analysis and inclination of water barriers, including the dates and time of the demonstration involved and the provision of photos if possible. He expressed the view that if it would be impossible to push down the water barriers, it would then be unnecessary for the Police officers to apply spray pepper to the demonstrators behind the water barriers.

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67. Ms Cyd HO requested the Police to make arrangements for a test of the large and small canisters of pepper spray by an independent laboratory, including testing the pressure per square inch when spraying at a distance within two metres.

68. ACP(SUP) said that she did not have the information on the force analysis of the water barriers on hand. To her knowledge, a water barrier was two metres tall and would weigh two tons when it was filled with water. On the day of the demonstration, the demonstrators attempted to charge and topple the water barriers. The Police officers at scene felt that there was a danger of the water barriers might fall down and therefore they had to counterbalance the force by pressing their body against the water barriers. Verbal warning and banners had been used to demand the demonstrators to cease their violent behaviour but in vain. Small canister of pepper spray had first been used to control the situation. However, when it failed to stop the violent behaviour of the demonstrators, large canister of pepper spray was then used.

69. Dr PAN Pey-chyou was concerned that demonstrations had become increasingly violent. Members of the public, including civil servants, had expressed their concerns about demonstrators' dangerous behaviour of toppling down the water barriers. He pointed out that it could cause serious injury to people or even fatal death. He shared the view of the Chairman and requested the Government to conduct a test about the force required to topple a water barrier and make available the test results to members of the public so as to address their concerns.

70. ACP(SUP) responded that it was not appropriate to provide details on the force analysis required for toppling a water barrier as such information might be used by some criminals, which would compromise future security operations.

Action

71. Having regard to public safety, Dr PAN Pey-chyou was of the view that the Government should conduct such test, notwithstanding that the test results would not be made public. ACP(SUP) responded that great importance was attached to the personal safety of members of the public and Police officers. The suggestion of conducting such a test would be considered.

Admin

(Members agreed to extend the meeting to 10:58 am.)

Admin

72. Mr Paul TSE requested that the news footage on the relevant use of large canister pepper spray during the demonstrations be provided for members' reference. He echoed the view of Dr PAN Pey-chyou that a water barrier would cause serious injury when it fell down. He considered it necessary to conduct a review on the Police's operations in the demonstration, including the use of large canister of pepper spray.

73. Regarding the water barriers and the use of pepper spray, Mr WONG Kwok-kin said that he was on a flyover around 7:00 pm on 30 June 2012 and saw that the water barriers had really been moved. He further said that the use of pepper spray on the demonstrators to stop their violent behaviour was acceptable under such circumstances as the water barriers, if fell down, would cause very serious injury to either the demonstrators or the Police officers at scene. He called on the Government to make available a report on the comparison between the large and small canisters of pepper spray and the possible harm that they might cause to people.

74. ACP(SUP) replied that there were safety guidelines for using pepper spray. The objective was to stop the demonstrators from charging the Police's cordon line or pushing the water barriers. It was not intended to cause any harm to people.

75. Mr WONG Yung-kan recalled that he was in a car passing Harbour Road around 5:00 pm on 30 June 2012 and saw that some demonstrators had climbed onto a water barrier with a banner. He said that the situation was dangerous and it was possible that an accident would have taken place. It was important for the demonstrators to behave in a rational manner.

76. Mr WONG Yuk-man was of the view that the behaviour of demonstrators and Police officers was interactive. Whenever there was great suppression from the Police, the demonstrators would resist in a more radical way. He said that there had been much suppression of demonstrations since the new CP assumed office. He forewarned that the Government would suffer from the consequence of the suppression.

Action

77. While pointing out that water barriers had been used on some international occasions, the Deputy Chairman said that it was understandable that the demonstrators felt frustrated because of the hindrance to demonstration caused by the water barriers. He was of the view that the Police had the responsibility to maintain public order and public safety. Whenever demonstrators' violent acts and charging escalated and constituted a threat to the personal safety of the Police officers or demonstrators, it was necessary for the Police to take action to stop such behaviour. He quoted the case of Mr LEUNG Kwok-hung charging the public consultation forum conducted by the Government in 2011. It was stated in the court judgment that whatever the motive for the charging might be, a sanction would be imposed on such behaviour if there was a threat to the personal safety of members of the public. He shared the view of Mr WONG Yuk-man that the behaviour of the demonstrators and the Police was interactive. He considered it important that both the Police officers and demonstrators could respect one another and exercise restraint. While it would be unfair to blame the Police officers, it was also important for the Police to understand demonstrators' eagerness to express their views.

78. Referring to IPCC's comments on the Police's handling of the public meetings and public processions around 1 July 2012, the Deputy Chairman urged Members or the demonstrators to take action via a proper channel and lodge a complaint with CAPO as necessary.

79. Having regard to the possibility that the use of water barriers might cause injury to either the Police officers or demonstrators, Dr Margaret NG urged the Police to conduct a study on water barriers and discontinue using them as appropriate. As a matter of fact, the use of water barriers had hindered the expression of views by demonstrators. Regarding the use of large canister of pepper spray, Dr NG was of the view that Members and members of the public should be informed of the possible injury caused by the pepper spray and the specification of pepper spray should not be kept confidential.

80. There being no other business, the meeting ended at 10:58 am.