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Panel on Home Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 24 March 2015**

Review of the Chinese Temples Ordinance

Purpose

This paper provides background information on the Chinese Temples Ordinance (Cap. 153) ("the Ordinance") and highlights the main concerns of Legislative Council ("LegCo") Members on the subject.

Background

2. According to the Administration, the Ordinance was enacted in 1928 with an aim to suppress and prevent abuses in the management of Chinese temples and in the administration of the funds of Chinese temples. The Ordinance stipulates that no Chinese temple¹ should be established or maintained unless registered in accordance with the provisions of the Ordinance, and the revenues, funds, investments and properties of all Chinese temples should be under the control of the Chinese Temples Committee ("CTC"). CTC is a statutory body established under the Ordinance. Its main responsibilities include the registration, management and inspection of Chinese temples, as well as the

¹ "Chinese temple" (華人廟宇) includes - (a) all Miu (廟, temples), Tsz (寺, Buddhist monasteries), Kun and To Yuen (觀及道院, Taoist monasteries) and Om (庵, nunneries); and (b) every place where - (i) in accordance with the religious principles governing Miu, Tsz, Kun, To Yuen or Om, worship of gods or communication with spirits or fortune-telling is practiced or is intended to be practiced; and where (ii) fees, payments or rewards of any kind whatsoever are charged to or are accepted from any member of the public for the purpose of worship or communication with spirits or fortune-telling or any similar purpose, or in return for joss candles or incense sticks, or on any other account whatsoever.

management control and audit of the Chinese Temples Fund² and the General Chinese Charities Fund³. CTC is chaired by the Secretary for Home Affairs, and the administrative support for the two Funds is provided by the Trust Funds and Temples Joint Secretariat under the Home Affairs Bureau ("HAB").

3. When discussing with the Administration issues relating to the supervision of CTC at its meeting in June 2002, members of the Panel on Home Affairs ("the HA Panel") were advised that HAB was working on a series of enhancement measures which included reviewing the operational procedures, formulating a declaration of interest system and drawing up a code of conduct for staff members. HAB had asked the Corruption Prevention Department of the Independent Commission Against Corruption to help conduct an overall review of the organizational structure, rules of procedure and mode of operation of CTC and its Secretariat.

Members' concerns

4. The main concerns expressed by LegCo Members at various committee meetings since the fourth term of LegCo are summarized in the ensuing paragraphs.

Supervision of CTC

5. When the Panel on Administration of Justice and Legal Services discussed the review of the jurisdiction of the Office of The Ombudsman ("The Ombudsman") at its meeting in April 2009, the Administration advised that CTC should continue to be excluded from The Ombudsman's jurisdiction. According to the Administration, judging from CTC's mode of income generation, executive function and interface with worshippers, CTC arguably operated like any other religious bodies which operated places of worship in Hong Kong. There were also non-religious charitable organizations in Hong Kong that ran temples of their own. Subjecting CTC to The Ombudsman's

² Keepership fees and worshippers' donations are paid to the Chinese Temples Fund. The income of the Fund is used to finance customary ceremonies and the maintenance of temple properties. Surpluses are transferred to the General Chinese Charities Fund. According to CTC's "Report on the administration of the Chinese Temples Fund for the year ended 31 March 2014" tabled at the LegCo meeting of 17 December 2014, surplus from CTC's self-administered and delegated temples amounted to \$34.21 million in 2013-2014.

³ The General Chinese Charities Fund can make grants to any Chinese charity in Hong Kong as CTC deems fit. In addition, grants are allocated annually to each District Office for emergency relief grants. According to CTC's "Report on the administration of the General Chinese Charities Fund for the year ended 31 March 2014" tabled at the LegCo meeting of 17 December 2014, the investment income and total expenditure of the Fund was \$5.19 million and \$22.04 million (of which \$6.4 million was deployed for charity use) respectively in 2013-2014.

jurisdiction would have read-across implication on such organizations. As such, the Administration considered it vital to ensure that CTC, like other ethnic or religious bodies as well as non-religious charitable organizations, were allowed to continue with their current mode of operation in accordance with the prevailing legislative and regulatory framework.

Implementation and review of the Ordinance

6. At the HA Panel meeting in January 2012, concern was raised about the media reports on columbarium facilities being found in premises that claimed to be Chinese temples but not registered under the Ordinance. In reply, the Administration issued a letter dated 16 February 2012 [LC Paper No. CB(2)1108/11-12(01)] to the HA Panel, informing members that HAB was conducting a review of the Ordinance. According to Administration, due to changes in social circumstances since the enactment of the Ordinance, some of the provisions of the Ordinance might become inapplicable. The review focused on the power and responsibilities of CTC and the religious matters of Chinese temples, and also involved temple registration. The Administration estimated that the review would be concluded by the end of 2012. Meanwhile, the Food and Health Bureau had been formulating a licensing scheme for private columbaria⁴.

7. In reply to Members' questions raised about the Ordinance at various Council meetings since 2012, the Administration advised that due to social changes, some of the powers conferred by the Ordinance to CTC no longer met prevailing community expectations of protecting private property rights. Such powers included that the revenues, investments and properties of all Chinese temples should be under CTC's control, and that CTC might require any person in possession of any property held by any Chinese temple to transfer any such property to the Secretary for Home Affairs Incorporated. The Administration considered that the Ordinance should be amended with an aim to better serve prevailing social needs by removing out-dated regulation over Chinese temples.

8. According to the Administration's reply to Members' written questions during the examination of the Estimates of Expenditure 2014-2015, there were currently a total of 347 registered Chinese temples under the Ordinance, and four Chinese temples had been newly registered since 2005. CTC had not applied the provisions under the Ordinance to take actions against those temples operating without registration under the Ordinance in the past 10 years.

⁴ The Private Columbaria Bill ("the Bill") was introduced into LegCo in June 2014 to provide a licensing scheme for regulating the operation of private columbaria. The Bills Committee on the Private Columbaria Bill is scrutinizing the Bill.

Latest development

9. The Administration will brief the HA Panel on the results of the review of the Ordinance at its meeting on 24 March 2015.

Relevant papers

10. A list of relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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**Relevant papers on
Review of the Chinese Temples Ordinance**

Committee	Date of meeting	Paper
Panel on Home Affairs	14.6.2002 (Item VI)	Agenda Minutes
Panel on Administration of Justice and Legal Services	27.4.2009 (Item V)	Agenda Minutes
Panel on Home Affairs	13.1.2012 (Item III)	Agenda Minutes Administration's reply letter dated 16 February 2012 on the Review of Chinese Temples Ordinance [LC Paper No. CB(2)1108/11-12(01)]
Legislative Council	18.1.2012	Official Records of Proceedings Pages 4761 to 4763 (written question raised by Hon Tanya CHAN on "Chinese Temples Ordinance")
	27.11.2013	Official Records of Proceedings Pages 3333 to 3340 (written question raised by Dr Hon Kenneth CHAN on "Chinese Temples Ordinance")
Financial Committee (Special meeting to examine the Estimates of Expenditure 2014-2015)	--	Administration's replies to Members' initial written questions (Reply Serial No. HAB302)
Legislative Council	17.12.2014	Report on the Administration of the Chinese Temples Fund for the year ended 31 March 2014 Report on the Administration of the General Chinese Charities Fund for the year ended 31 March 2014