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For discussion on
10 July 2018

Legislative Council Panel on Security

An Update on the Comprehensive Review on the Strategy of Handling Non-refoulement Claims

Proposals to Amend the Immigration Ordinance (Cap. 115)

Purpose

This paper briefs Members on the latest progress of the Government's review on the Immigration Ordinance (Cap. 115), and seeks Members' views on the proposals being considered.

Background

2. The Government commenced the comprehensive review of the strategy of handling non-refoulement claims ("comprehensive review") in early 2016. Various measures being or already implemented so far have shown effective results. The numbers of non-ethnic Chinese illegal immigrants and non-refoulement claims have dropped significantly by 80%. As at the end of June 2018, 2 997 claims were pending screening by the Immigration Department ("ImmD"), representing a drop of over 70% from the peak. The number of decisions made by the Torture Claims Appeal Board ("TCAB") has increased since last year: in the first five months of 2018, TCAB concluded about 270 appeals per month on average, i.e. 5.6-fold as compared with 2016. As at end-May, about 6 200 appeals were pending handling. The latest statistics on non-refoulement claims are at **Annex A**.

3. Part VIIC and Schedule 1A of the Immigration Ordinance, which provide for the statutory framework of the screening and appeal procedures and related matters for torture claims, came into effect on 3 December 2012. In view of the subsequent judgments of two judicial review cases by the Court of Final Appeal ("CFA"), the Unified Screening Mechanism ("USM") was implemented in March 2014 and its procedures are also based on the said statutory framework. A flowchart of the screening and appeal procedures under USM is at **Annex B**.

4. Currently, Part VIIC and Schedule 1A of the Immigration Ordinance prescribes the specific timeframes for certain procedures and provides for the handling of extension applications (e.g. submission of claim forms and lodging an appeal). However, for other procedures (e.g. submission of documents and evidence, arrangement of screening interviews), no similar specific provisions apply. Besides, provisions relating to the rights and duties of claimants, ImmD and TCAB are relatively broad-brush. It contains no specific provision on how to address individual situations (e.g. the claimant furnishes voluminous information that is irrelevant to his/her claim, or refuses to submit the medical report after a medical examination).

Amendments to the Immigration Ordinance

5. As part of the comprehensive review, the Government has drawn from and assessed the operational experience of USM and made reference to the relevant overseas legal provisions and practices. The Government has also reviewed the provisions of the Immigration Ordinance in respect of the screening procedures and other related matters. We consider that the existing framework of screening procedures can be largely retained. Nevertheless, we consider that the timeframes and procedures of extension application already provided for in the law could be tightened. For those key procedures without any specific provision, we consider incorporating more specific requirements so as to tackle various obstruction or delay tactics more effectively and enhance the overall screening efficiency. Amendment proposals which are being considered are summarised below.

Submission of claim form

6. At present, section 37Y of the Immigration Ordinance prescribes that a claimant must, on written request by an immigration officer, complete and return the claim form[1] within 28 days to commence the screening procedures. However, in response to the strong request of

[1] A claimant needs to complete a claim form to provide ImmD with his/her background information and that of his/her family, together with the specific grounds of his/her claim, including why and how he/she left his/her country of origin, possible risks he/she will face if he/she returns to that country, experience encountered by him/her or his/her family, whether assistance or protection has been sought in that country from the local government or international organisations, whether he/she has lived in places other than his/she city or territory of origin in that country, etc. Also, relevant supporting documents or other evidence have to be submitted with the claim form.

Duty Lawyer Service ("DLS") upon implementation of USM, the Government agreed to give claimants 21 additional days by means of administrative measures. As such, under the current arrangement, claimants are given 49 days (i.e. 7 weeks) to return their claim forms, which is 75% longer than the statutory period of 28 days.

7. To alleviate the delay problem, we with reference to overseas practices (e.g. Canada requires claimants to submit all relevant information and documents within 15 days) are **considering** tightening the statutory timeframe for submission of claim forms (e.g. to 14 days) and cancelling the above administrative arrangement of allowing 21 additional days, with a view to further enhancing the screening efficiency.

8. According to section 37Y(3) of the Immigration Ordinance, a claimant may, before the submission deadline, submit a written application to the immigration officer for extending the time to return the claim form. To ensure fairness, we propose to retain the said mechanism. Nevertheless, we are **considering** stipulating that claimants can request for an extension only if they have exercised all due diligence to comply with the original deadline as far as practicable, and that is because of "exceptional" and "uncontrollable" circumstances.

<u>Submission of documents and evidence</u>

9. At present, section 37Y(1)(b) of the Immigration Ordinance prescribes that the claimant is required to submit all readily available supporting documents when returning the claim form. Separately, sections 37ZB(1)(a) and (2) prescribe that an immigration officer may require the claimant to provide any information or documentary evidence within a specified period of time.

10. However, the Immigration Ordinance does not prescribe how ImmD should handle the situation where a claimant requests to provide documents and evidence outside the above timeframe. In fact, there have been cases where claimants, after returning their claim forms, repeatedly requested deferral of screening interviews on the ground of submitting additional documents and evidence, but do not do so eventually; or furnished voluminous documents that were clearly irrelevant to their claims in an attempt to impede the smooth progress of the screening procedures.

11. We are **considering** adding provisions to require claimants to submit all relevant supporting documents with the claim form. But if

they are unable to do so immediately, they must provide a list stating the outstanding documents that will be submitted later and setting out the nature of the documents and explaining how they can support the claim. Besides, claimants must pinpoint the parts of the documents which are relevant to their claim. Any documents not submitted timely or pinpointed as required above will not be considered, unless the claimant has exercised all due diligence to comply with to the original deadline, and could not timely submit or pinpoint the documents due to "exceptional" and "uncontrollable" circumstances. Moreover, all documents have to be submitted before the first screening interview (e.g. 3 working days before), so as to provide sufficient time for ImmD's case officers to consider, and prevent claimants from obstructing or delaying the procedures by the above method.

Screening interviews

12. Section 37ZB(1)(b) of the Immigration Ordinance prescribes that an immigration officer, upon receipt of the claim form, must require the claimant to attend a screening interview to provide information and answer questions. It takes time to arrange a screening interview as it has to be conducted at a time convenient to the lawyer and interpreter concerned. In case an interview cannot be completed as planned and has to be re-scheduled, the screening procedures will be substantially delayed. Currently, no specific provision in the Immigration Ordinance set out a detailed arrangement of screening interviews (e.g. the circumstances under which an interview needs to be re-scheduled by ImmD). ImmD implemented the administrative measure to schedule interviews in advance since 2016, which has been operating smoothly so far.

13. To prevent obstruction or delay of the said procedures by claimants by absence from interviews without any reason or making repeated requests for deferral of interviews, we are **considering** adding provisions to set out the procedures and rules of arranging interviews between ImmD and claimants, including prescribing that ImmD may notify a claimant in writing of the dates and times of the first and subsequent interviews when commencing the screening procedures (i.e. upon ImmD's request to the claimant to completing claim form), making reference to ImmD's current administrative measure.

14. We are also **considering** stipulating that a claimant could apply for re-scheduling an interview only due to "exceptional" and "uncontrollable" circumstances, and such application must be submitted before the original interview date. For those who are absent without

re-scheduling, they must submit to ImmD a written application not later than a specified period (e.g. within 3 working days) after the original interview, if they wish to re-arrange an interview. Such application should set out whether all due diligence has been exercised to attend the interview at the original time and date as far as practicable, etc. If ImmD is not satisfied with the reasons provided by claimants, there is no need to re-schedule or re-arrange the interview, and ImmD has the authority to decide the claims based on the claim forms and all information already known.

15. On the other hand, for claimants who cannot communicate in Chinese or English, ImmD will arrange simultaneous interpretation. At present, the interpreters (including full-time interpreters employed by ImmD and part-time interpreters) for screening interviews also meet the same qualification requirement for serving at the Judiciary. However, there have been cases where claimants repeatedly requested ImmD to arrange an interpreter who could communicate in their most proficient language (including tribal dialects) for the interview, but in fact they could reasonably communicate in other languages (e.g. English or the official languages of their countries of origin), so as to obstruct or delay the screening procedures. We are **considering** that provisions be made to prescribe that if a claimant is reasonably supposed to understand and to be able to communicate in another language, the interview needs not to be conducted in the claimant's most proficient language, so as to minimise the delay in screening due to failure to arrange an interpreter as requested by the claimant.

Medical examination

16. The existing mechanism does not require all claimants to undergo a medical examination. Section 37ZC of the Immigration Ordinance prescribes that if the physical or mental condition of a claimant is in dispute and is relevant to the consideration of the claim, ImmD or TCAB may require the claimant to undergo a medical examination to be conducted by a medical practitioner as arranged by ImmD (and ImmD may also, at the request of the claimant, arrange for a medical examination). The Immigration Ordinance also prescribes that the claimant must attend the examination at the time and place that the immigration officer notifies to the claimant; and disclose to an immigration officer and (on an appeal) TCAB the medical report of the said examination. Nevertheless, the Immigration Ordinance does not specifically set out any detailed arrangements for circumstances such as when a claimant is absent from the medical examination without any

reason, or there is a need to re-schedule the medical examination. There is also no requirement on when the claimant must submit the medical report.

17. There have been cases where claimants applied for deferral of different screening procedures on the grounds of physical illness or mental problems, but did not attend the medical examinations arranged by ImmD; refused to submit the relevant medical reports (especially when they know that the reports could not assist their claims); or only submitted parts of the medical reports, rendering ImmD unable to quickly ascertain whether their extension applications were reasonable. These acts have led to substantial delay in screening. The most serious cases were that the claimants were absent from or refused to attend screening interviews repeatedly on the grounds of mental problems and physical illness, etc., disagreeing with the professional assessment of the medical practitioners without any reasonable grounds after examinations, or even challenging the professional qualifications of medical practitioners, etc., which delayed the screening procedures for over a year.

18. With reference to similar procedures for screening interviews in paragraphs 13 and 14 above, we are **considering** that provisions be made to stipulate the arrangement for handling the situation where a claimant fails to attend a medical examination arranged by ImmD on time. Moreover, if a claimant refused to submit to ImmD/TCAB the medical report after the medical examination, we are **considering** stipulating that the physical or mental condition so claimed will not be accepted.

Lodging appeals

19. Section 37ZS of the Immigration Ordinance provides that any claimant aggrieved by ImmD's decision may lodge an appeal in writing (i.e. Notice of Appeal) within 14 days after he/she is informed of such decision. Section 37ZT(2) prescribes that when TCAB considers whether to allow a late appeal, apart from the claimant's statement of reasons for late filing, it must take into account "any other relevant matters of fact" within its knowledge.

20. According to local case law, the role of TCAB is to consider the grounds of the claim and the relevant supporting documents from the claimant afresh. Unlike the average civil appeals, TCAB would not determine whether an immigration officer has made the right decision. Moreover, when lodging an appeal, the grounds and supporting documents of the claimant should in general be largely the same as those

previously submitted to ImmD for screening. Therefore, we are **considering** tightening the statutory timeframe for lodging an appeal (e.g. from the current 14 days to 7 days).

21. Separately, although section 37ZS(2)(a) provides that the Notice of Appeal must be in a form specified by the Chairperson of TCAB, there is no provision specifying how TCAB should handle the incomplete or unsigned notice. To avoid disputes, we are **considering** stipulating that TCAB must regard the incomplete or unsigned Notice of Appeal as invalid.

22. Besides, currently the Immigration Ordinance prescribes that when considering a late appeal, TCAB could take into account "any other relevant matters of fact" within its knowledge. Such provision can easily lead to disputes, and TCAB when handling the late appeal would be questioned as to whether it has taken into account matters that do not directly relate to the reasons for the late filing but only relate to the substantial appeal itself. We are of the view that when considering the late appeal, TCAB should only take into account the reasons for and relevant evidence on the late filing of appeal, but not "other relevant matters of fact", so that late filing of appeal can be handled in a fair and objective manner. Hence, we are **considering** deleting the above provision that TCAB can take into account "any other relevant matters of fact" within its knowledge.

Hearing arrangement

23. Paragraph 6 of Schedule 1A of the Immigration Ordinance prescribes that upon receipt of a Notice of Appeal from a claimant, the Chairperson of TCAB shall assign a member to handle the appeal, or having regard to the circumstances of individual appeal cases, assign three members to hear and determine an appeal. For the latter, the meeting shall be presided by the Chairperson or Deputy Chairperson of TCAB. Currently, TCAB has one Chairperson, six Deputy Chairpersons and 95 members. In the coming few years, it is anticipated that TCAB has to handle close to 10 000 appeals, among which not a few are possibly more complicated cases which would require three members to hear and decide. Only relying on the Chairperson and six Deputy Chairpersons to preside the meetings concerned may not afford them sufficient time and limit TCAB's operation. To ensure flexible and smooth operation, we are **considering** amending the relevant provisions, so that when the Chairperson of TCAB assigns three members to handle

an appeal, the meeting can be presided by any member.

24. After preliminary assessment of case merits, the assigned member(s) will decide whether to conduct an oral hearing. Paragraph 13 of Schedule 1A of the Immigration Ordinance prescribes that if TCAB decides to hold a hearing, it must, not less than 28 days before the date of hearing, serve on the parties a notice of the date, time and place of the hearing. Currently, according to local case law, majority of the appeal cases would conduct an oral hearing[2]. Given the above arrangement, subsequent to the decision to conduct an oral hearing, TCAB needs to wait at least 28 days before conducting the hearing regardless of the complexity of the case. With a view to handling appeals as quickly as possible in the interest of claimants and all parties, we are **considering** tightening the timeframe to not less than 7 days before the date of hearing. The proposal could allow TCAB to conduct a hearing in a short time where necessary, taking into account the actual circumstances of individual cases (e.g. whether there is any potential security risk to the society, and if the appellant is in detention), so as to complete the handling of appeals as soon as possible.

25. Besides, paragraph 15 of Schedule 1A of the Immigration Ordinance stipulates that if the appellant chooses to be absent from the oral hearing, TCAB must, before proceeding to determine an appeal in his/her absent, give the absent appellant a written notice of its intention to do so. At the same time, TCAB must state that the appellant may submit to TCAB, within 7 days after the notice is given, a written explanation of his/her failure to attend the hearing. If the appellant could provide explanation and evidence, TCAB may consider re-arranging a hearing.

26. There have been cases where claimants were absent from hearings without any reasons, or repeatedly requested for deferral of hearings. Since it is the duty of claimants to attend hearings, we **consider** removing the requirement of written notice, and tightening the timeframe for explaining the absence (e.g. 3 working days or less after the deadline). Unless TCAB is satisfied that the claimant has exercised

[2] Section 12 of Schedule 1A of the existing Immigration Ordinance prescribes that TCAB may decide against conducting a hearing for an appeal upon considering the merits of the case. However, the Court of Appeal of the High Court ruled in a relevant judicial review in June 2014 that an oral hearing by TCAB should be the norm rather than the exception. Since the ruling, the percentage of appeal cases in which oral hearings are conducted by TCAB has increased from about 5% previously to over 90% at present. As a result, TCAB needs to deploy more time and resources for arranging and conducting oral hearings.

all due diligence to comply with the original date and time of the hearing, and his/her absence is due to "exceptional" and "uncontrollable" circumstances, it will not re-arrange the hearing.

27. Same as the above situation of screening interviews, there have been cases where claimants repeatedly requested TCAB to arrange an interpreter who could communicate in their most proficient language (including the tribal dialect) for the hearing, but in fact they could reasonably communicate in other languages (e.g. English or the official languages of their country of origin), so as to obstruct or delay the appeal procedures. Hence, we are **considering** that provisions be made to prescribe that if a claimant is reasonably supposed to understand and to be able to communicate in another language, the hearing needs not to be conducted in the claimant's most proficient language (e.g. his/her mother tongue or dialect). The same requirement is applicable to the witnesses attending the hearing.

28. On the other hand, there have been cases where claimants repeatedly requested deferral of hearings on the grounds of submitting additional new evidence, or furnished voluminous documents that were irrelevant to their appeals in an attempt to obstruct or delay the smooth progress of the appeal procedures. Hence, we also are **considering** tightening the presenting of new evidence at the appeal stage, by specifying that the claimant must explain why the evidence was not submitted before ImmD's decision being appealed against was made. TCAB will also consider if the claimant has exercised all due diligence but still could not submit the documents before, and whether "exceptional" and "uncontrollable" circumstances account for the situation.

<u>Powers and functions of TCAB</u>

29. Currently, Schedule 1A of the Immigration Ordinance specifies that the Chairperson of TCAB is responsible for making any arrangements that are practical to ensure that members discharge their functions in an orderly and expeditious manner. Furthermore, the Chairperson has the power to assign member(s) to hear and determine an appeal, decide the order in which appeals and matters are to be heard or determined generally or in any particular circumstances, as well as to give directions, generally or in a particular case, on the practice and procedures in hearing and determining an appeal, etc. If the Chairperson is unable to act as Chairperson by reason of illness, absence from Hong Kong or any other cause, the Chairperson may designate a Deputy

Chairperson to act in the place of the Chairperson. The Immigration Ordinance does not stipulate that the Chairperson can delegate to Deputy Chairpersons or other members to perform the said functions where necessary under other circumstances.

30. In view of the significant increase of TCAB's caseload, and the increase in the number of its members, we are **considering** adding provisions to prescribe that the Chairperson of TCAB may delegate the specified powers and functions (e.g. assign member(s) to hear and determine an appeal, decide the order in which appeals are to be heard or determined) under Schedule 1A of the Immigration Ordinance to Deputy Chairpersons or other members where necessary, such that TCAB could continue to operate effectively.

Withdrawal of claims/appeals

31. At present, section 37ZE(1) of the Immigration Ordinance prescribes that a claimant may, before his/her claim is decided under section 37ZI by ImmD, withdraw the claim by notifying ImmD in writing. There is no such specific provision for the withdrawal of appeal at the appeal stage. There have been cases where claimants, upon withdrawal of the claim (or appeal), requested to re-open the case on various reasons. There were even claimants who repeatedly withdrew and requested for re-opening so as to delay the repatriation. Therefore, we are **considering** adding provisions to prescribe that a claim (or an appeal) should be deemed withdrawn immediately upon receipt of the claimant's written notice by ImmD (or TCAB). The withdrawn claim (or appeal) must not be re-opened.

Subsequent claims

32. Currently, the Immigration Ordinance already imposes certain limitations on claimants submitting a claim again (i.e. subsequent claim) upon rejection or withdrawal. Section 37ZO(2) of the Immigration Ordinance prescribes that a claimant may make a "subsequent claim" to ImmD if there has been a "significant change" of circumstances since the previous claim was finally determined or withdrawn, and the change, when taken together with the material previously submitted in support of the previous claim, would give the further claim a realistic prospect of success.

33. To avoid abuse, we are **considering** tightening the threshold for making a "subsequent claim", by making provisions stipulating that the said "significant change" must relate to the claimant himself/herself or his/her risk country/territory. Also, any further documents and evidence which could be submitted by the claimant must only relate to matters that happened after the previous claim was finally determined or withdrawn.

Abscondence or loss of contact

34. There have been cases where claimants who, before commencement of the screening procedures, had already absconded or whom ImmD had lost contact with. Hence, ImmD was unable to serve them the claim form and commence the screening procedures. To deter the cases where the claimant obstructs or delays the screening procedures by not showing up, we are **considering** stipulating that if a claimant has absconded or lost contact before commencement of the screening procedures, his/her claim shall be deemed withdrawn automatically. Unless the claimant can prove that his/her failure to report to ImmD on time (i.e. not absconded deliberately) or contact ImmD is due to "exceptional" and "uncontrollable" circumstances, and all due diligence has been exercised to avoid the said situation, otherwise ImmD will not consider allowing the claim to re-open.

Duties of ImmD/TCAB

35. According to local case law, whether a non-refoulement can be substantiated, the burden of proof rests with the claimant and the claimant has the duty to establish the claim. Nevertheless, the Court also considers that as "high standards of fairness" must be achieved when handling the claim. Hence, depending on the circumstances of individual cases, the screening procedures should still be based on "joint endeavour" by the claimant and ImmD/TCAB. For example, ImmD/TCAB should provide assistance to claimants/appellants where necessary so as to substantiate their claims/appeals.

36. To make clear the rights and duties, we are **considering** making provisions to specify that the duties of ImmD and TCAB do not include assisting the claimants to substantiate their claims/appeals. For example, ImmD and TCAB do not have the duties to assist claimants to gather information, or provide information relating to their claims/appeals (unless such information may be unfavourable to their claims/appeals and the claimants may comment on the information).

37. On the other hand, ImmD has been, subject to practical needs, issuing administrative guidelines to ensure the effective implementation of provisions. The guidelines can also avoid unnecessary disputes between the claimant and ImmD about the screening procedures. We are **considering** making provisions to prescribe that the Director of Immigration has, in compliance with the law, the authority to formulate guidelines on the screening procedures for non-refoulement claims, including the conduct of interviews and the arrangement and conduct of medical examinations.

Management of detention facilities

38. Notwithstanding that all frontline immigration officers receive regular trainings to enhance their responsiveness to emergency situations, currently they are not authorised, unlike most other law enforcement agencies, to possess arms or ammunition, etc. To facilitate immigration officers performing their duties and enhance the management of detention facilities, we are **considering** amending the Firearms and Ammunition Ordinance (Cap. 238) and the Weapons Ordinance (Cap. 217), so as to authorise immigration officers to possess arms, ammunition, etc., with a view to further enhancing ImmD's ability to handle emergencies.

Removal procedures

39. Currently, the Immigration Ordinance does not prescribe when ImmD could commence the removal procedures for rejected claimants, including the pre-removal arrangements (e.g. issuance of necessary travel documents). In general, ImmD commences repatriation after all the screening and appeal procedures (if any) are completed, i.e. the claim is finally determined or withdrawn. To enhance ImmD's removal efficiency, we are **considering** adding provisions to prescribe that even though the appeal is pending, once the claim has been rejected by an immigration officer, the HKSAR Government may, on the prerequisite of not disclosing whether the person concerned has filed a claim, liaise with the relevant authorities for repatriation arrangements in parallel. This includes arranging for the issuance of necessary travel documents. This is to expedite repatriation and shorten the time of claimants whose claims have been rejected/withdrawn staying in Hong Kong. As the action is only taken after ImmD has determined the claim, fairness of handling the claim is safeguarded.

Unlawful employment

40. Currently, section 17I of the Immigration Ordinance prescribes that any person who is the employer of a person not lawfully employable (including illegal immigrants, overstayers or visitors refused permission to land) commits an offence and is liable to a fine of $350,000 and to imprisonment for 3 years. To reinforce efforts against unlawful employment, to further deter employers from employing illegal immigrants, overstayers or passengers refused permission to land, and to minimise the economic incentive for potential claimants to come to Hong Kong, we are **considering** making reference to the "Employment (Amendment) Bill 2018" to make provisions for expanding the coverage of employment of a person not lawfully employable, by stipulating that if any body corporate employs anyone who is not lawfully employable, and the offence is proved to be committed with the consent or connivance of any director, manager, secretary or other similar officers of that body corporate, or attributable to the negligence on the part of such persons, then the director, manager, secretary or other similar officers shall be taken to have committed the like offence.

41. In a similar vein, if a partner in a partnership employs anyone who is not lawfully employable, and the offence is proved to be committed with the consent or connivance of, or is attributable to the negligence on the part of, any other partner in the partnership or any other person concerned in the management of that partnership, then that other persons shall be taken to have committed the like offence.

Other areas

42. The legislative review is still in progress. We will further report to the Legislative Council ("LegCo") as soon as practicable on other relevant proposals.

Advice sought

43. Members are invited to note the latest progress of the comprehensive review, and comment on the amendment proposals to the Immigration Ordinance and relevant ordinances being considered by the Government as detailed in paragraphs 5 to 41 above. Subject to Members' views and the progress of review, our target is to submit an amendment bill to LegCo next year.

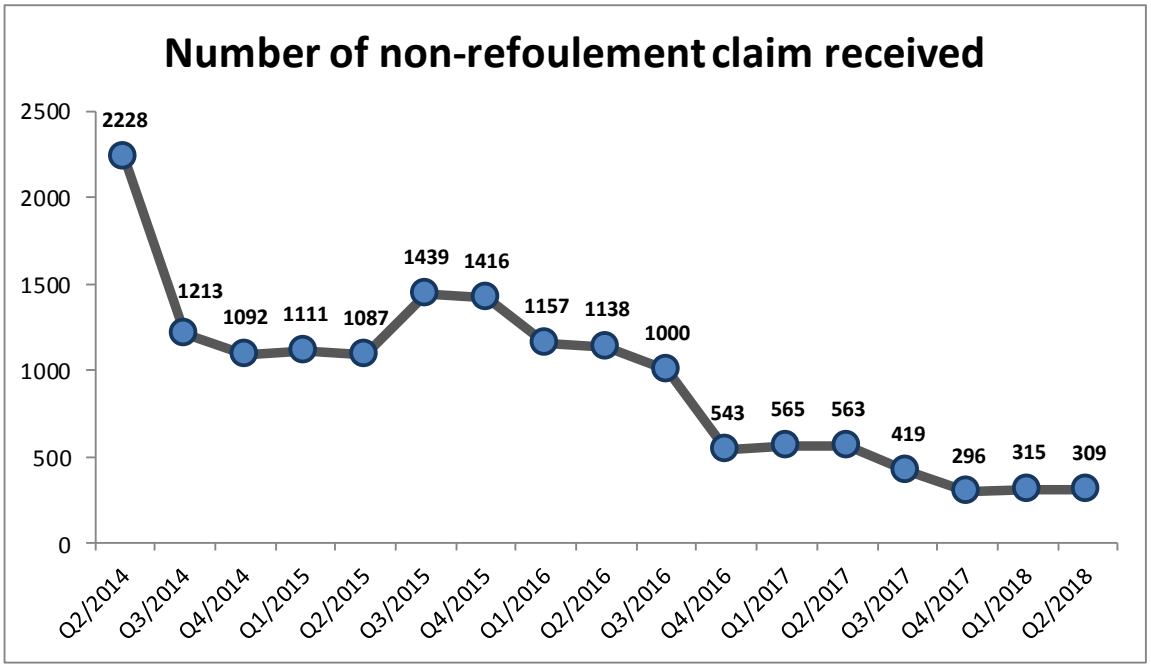
Security Bureau
Immigration Department
July 2018

Annex A

Quarterly statistics of non-refoulement claims

Year	Quarter	Number of claims received	% change since the quarter before	% change since the same period the year before	% change since the peak (Q3/2015)^
2014	Q2	2 228			
	Q3	1 213	-46%		
	Q4	1 092	-10%		
2015	Q1	1 111	+2%		
	Q2	1 087	-2%	-51%	
	Q3	1 439	+32%	+19%	
	Q4	1 416	-2%	+30%	-2%
2016	Q1	1 157	-18%	+4%	-20%
	Q2	1 138	-2%	+5%	-21%
	Q3	1 000	-12%	-31%	-31%
	Q4	543	-46%	-62%	-62%
2017	Q1	565	+4%	-51%	-61%
	Q2	563	0%	-51%	-61%
	Q3	419	-26%	-58%	-71%
	Q4	296	-29%	-45%	-79%
2018	Q1	315	+6%	-44%	-78%
	Q2	309	-2%	-45%	-79%

^ ImmD received 2 228 claims in Q2/2014 immediately after USM was launched. The claims received possibly included those who had planned to lodge claim before USM. Hence, it may be inappropriate to include the claim figure of that quarter for trend comparison.



Statistics on non-refoulement claims
(as at end June 2018)

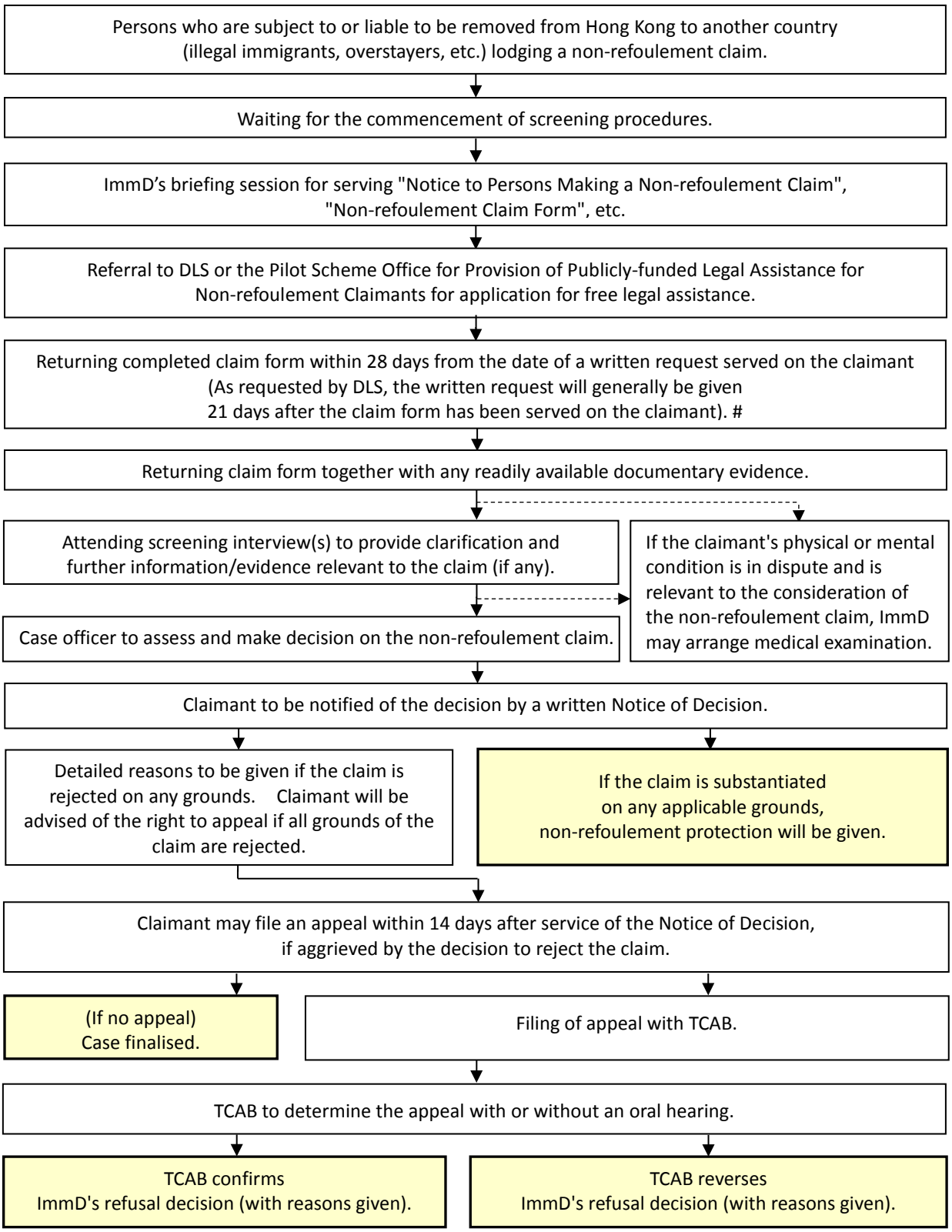
Year	Claims received	Claims determined	Claims withdrawn or no further action can be taken	Pending claims (at year end)
End 2009				6 340
Enhanced administrative mechanism (which became statutory mechanism since Decmber 2012)				
2010 to 2013	4 906 *(Note 1)*	4 534	3 920	2 792
2014 (Jan to Feb)	19	221	89	2 501
Total torture claims under administrative and statutory mechanisms	*4 925*	*4 755*	*4 009*	*2 501*
Unified Screening Mechanism ("USM") (since March 2014)				
Claims lodged on other grounds such as cruel, inhuman or degrading treatment or punishment or persecution before commencement of USM	4 198			6 699 (=2 501 +4 198)
2014 (Mar to Dec)	4 634	826	889	9 618
2015	5 053	2 339	1 410	10 922
2016	3 838	3 218	1 561	9 981
2017	1 843	4 182	1 743	5 899
2018 (Jan to June)	624	2 658	868	2 997
Total non-refoulement claims under USM	**15 992**	**13 223** *(Note 2)*	**6 471**	**2 997**

Note 1: ImmD received a total of 4 906 torture claims from 2010 to 2013, an average of 102 per month. Since the commencement of USM to end 2015, ImmD received 9 687 torture claims, an average of 440 claims per month. Since the comprehensive review in early 2016, ImmD received an average of 320 claims per month in 2016, and an average of 154 claims per month in 2017, a decrease of 52%. In 2018 (up to end June), ImmD received 624 non-refoulement claims, an average of 104 claims per month, a further decrease of 32% as compared to 2017.

Note 2: Among the 13 223 non-refoulement claims determined by ImmD under USM, 111 (0.8%) were substantiated (including 38 substantiated by TCAB on appeal).

Annex B

Screening procedures for non-refoulement claims under the USM *



Notes:

* This flow chart is intended for a quick glance of the screening procedures of non-refoulement claims under the USM. It should not be taken as a formal or comprehensive reference of all the procedural steps involved.

Time extension for returning the completed claim form may only be allowed with good reasons in special circumstances on a case-by-case basis. Failure to return the completed claim form will result in the claim being deemed as withdrawn.