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Date : 4 February 1999
From : Clerk to Panel
To : Hon CHOY So-yuk (Chairman)
Hon Albert HO Chun-yan (Deputy Chairman)
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Hon Edward HO Sing-tin, JP
Hon LEE Wing-tat
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Hon James TO Kun-sun
Hon Ambrose CHEUNG Wing-sum, JP
Hon Christine LOH
Hon Mrs Sophie LEUNG LAU Yau-fun, JP
Hon Gary CHENG Kai-nam
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, JP
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, JP
Hon LAW Chi-kwong, JP

LegCo Panel on Home Affairs

Follow-up to meeting on 21 January 1999

The Administration has undertaken at the captioned meeting to provide a summary table on the Administration's responses to the United Nations Human Rights Committee's Concluding Observations in relation to the fourth periodic report and the supplementary report by the United Kingdom in respect of Hong Kong under the International Covenant on Civil and Political Rights. The Administration's letter of 3 February 1999 enclosing the summary table is attached for members' reference.

(Miss Flora TAI)
for Clerk to Panel

Encl.

c.c. Hon CHAN Kam-lam (Non-Panel Member)
Hon LAU Chin-shek, JP (Non-Panel Member)
ASG2
ALA4

政府總部民政事務局的信頭

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3 February 1999

Clerk to Home Affairs Panel
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Hong Kong
(Attn: Mrs Constance Li)
Fax No.: 2509 9055

Dear Mrs Li,

**Summary Table of HKSARG's responses to the
Human Rights Committee's Concluding Observations**

At the meeting of the LegCo Panel on Home Affairs on 21 January 1999, we undertook to provide a summary table on the Administration's responses to the UN Human Rights Committee's concluding observations in relation to the UK's fourth periodic report and supplementary report on Hong Kong. The table is now attached. Grateful for your onward transmission to members.

Yours sincerely,

(Miss Wong Yuet-wah)
for Secretary for Home Affairs

International Covenant on Civil and Political Rights

Response to the Concluding Observations of the Human Rights Committee in relation to the United Kingdom's fourth periodic report and supplementary report on Hong Kong

(A) Fourth periodic report

<u>Paragraphs in Concluding Observations</u>	<u>Concerns of the Committee</u>	<u>Response in Part II of the first report on the HKSAR</u>
10.	Absence of legislation providing effective protection against violations of Covenant rights by non-government actors.	Article 2: para. 19.
11.	The credibility of the investigation process and takes the view that investigation into complaints of abuse of authority by members of the Police must be entrusted to an independent mechanism.	Article 2: paras. 50-51.
12.	Official charge forms and charge sheets, as well as court documents are in English only.	Article 14: paras. 275-276.

13.	Situation of women, particularly the high level of violence and absence of adequate punitive or remedial measures.	Situation of women: Article 3. Domestic violence will be discussed in the ICESCR report.
13.	Sexual Discrimination Ordinance (SDO) is not yet in force and that it limits the damages awarded to women who are subject to sexual discrimination and does not give power to direct the reinstatement of women who have lost their jobs due to sexual discrimination.	Article 3: paras. 64-67.
13.	The SDO also has significant exemptions and has limitations when applying to discrimination based on gender and marriage and does not prohibit discrimination on the ground of age, family responsibility or sexual preference.	Article 3: paras. 64-65, 84-86. Article 26: paras. 496, 501, 503-504.
14.	There are as yet no detailed regulations to cover emergencies.	Article 4: paras. 88-89.
14.	The jurisdiction of the Court will not extend to reviewing undefined “acts of state” by the executive. Vague terminology such as “acts of state” may be interpreted so as to impose undue restrictions on the Court, including the application of any emergency laws that may be enacted in future.	Article 14: paras. 271-272.

15.	No detailed legislation to cover emergency and the provision in Art. 18 of the Basic Law appears not to correspond with the provisions of Art. 4 of the Covenant.	Article 4: paras. 88-89. Article 14: para. 273.
16.	The administration of legal aid is refused in a large number of Bill of Rights cases that are against the Government or public officers.	Article 14: para. 293.
17.	Many Vietnamese asylum-seekers are subject to long-term detention and that many are held under deplorable living conditions. Children living in camps are deprived of rights under the Covenant.	Article 9: paras. 156-166.
17.	The conditions under which deportations and removals of non-refugees of Vietnamese origin were carried out in practice.	Article 9: paras. 167-172.
18.	The Telecommunication Ordinance and Post Office Ordinances can be abused to intrude on the privacy of individuals and that their amendment is urgently required.	Article 17: paras. 315-316.
19.	The electoral system in HK does not meet the requirements of Arts. 25, 2, 3 and 26 of the Covenant. It underscores that only 20 of 60 seats in the LegCo are directly elected and that functional constituencies give undue weight to the business community and discriminate among voters on the basis of property and functions.	Article 25: para. 461.

19.	Laws depriving convicted persons of their voting rights for periods of up to ten years may be a disproportionate restriction of the rights protected by Art. 25.	Article 25: para. 462.
	<u>Suggestions and recommendations</u>	
20.	Efforts be accelerated to introduce Chinese version of official charge forms and charge sheets as well as court documents.	Article 14: paras. 275-276.
21.	To adopt the proposal of the IPCC to incorporate non-police members in the investigation of all complaints against the police.	Article 2: paras. 50-51.
22.	To reconsider the decision on the establishment and competence of a Human Rights Commission.	Article 2: paras. 20-22.
23.	The deficiencies in the Sexual Discrimination Ordinance be overcome by appropriate amendments and that comprehensive anti-discrimination legislation aiming at eliminating all remaining discrimination prohibited under the Covenant be adopted.	Article 3: para. 66. Article 26: paras. 482-485.
24.	To ensure that living conditions in Vietnamese Refugee detention centres be improved and special attention be given to the situation of children. Refugee status of all detainees	Article 9: paras. 157-165.

	should be speedily determined with right of judicial review and legal aid. Deportation and removal of non-refugees of Vietnamese origin should be closely monitored to prevent abuse.	
25.	Immediate steps be taken to ensure that the electoral system be put in conformity with Art. 21, 22 and 25 of the Covenant.	Article 25: paras. 461-464.

(B) Supplementary report

<u>Paragraphs in Concluding Observation</u>	<u>Concerns of the Committee</u>	<u>Response</u>
4-8	Reporting obligations after the transfer of sovereignty to the People's Republic of China.	The whole report itself comprises our response.