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Panel on Security

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 2 June 2009**

**Immigration convenience measures for Hong Kong and Macao residents
travelling between the two places**

Purpose

This paper summarizes past discussions by the Panel on Security (the Panel) on the enhanced immigration convenience measures for Hong Kong and Macao residents travelling between the two places.

Background

2. According to the information provided by the Administration in April 2009, the passenger flow between Hong Kong and Macao has been growing substantively in recent years owing to closer ties between the two places. The number of Macao Special Administrative Region (MSAR) residents visiting Hong Kong has increased from around 529 700 in 2006 to 591 800 in 2007 and 665 300 in 2008, representing an increase of over 25% in two years. The number of Hong Kong Special Administrative Region (HKSAR) residents visiting Macao has also increased from 6 940 000 in 2006 to 8 174 000 in 2007 and 8 234 000 in 2008, representing an increase of about 19% over the period. The number is expected to continue to rise in the future in view of the on-going tourism and business service development in the two places. Against this background, the Legislative Council passed a motion on 27 June 2008 urging the Government to enhance co-operation between Hong Kong and Macao on all fronts in view of Macao's close proximity to Hong Kong and its development in recent years.

3. The Chief Executive announced in his 2008-2009 Policy Address on 15 October 2008 that the HKSAR Government was about to conclude an agreement with the MSAR Government to further streamline the clearance procedures for residents travelling between the two places.

Enhanced Immigration Convenience Measures

4. During its briefing on the policy initiatives of the Security Bureau (SB) in the 2008-2009 Policy Address at the Panel meeting on 21 October 2008, the Administration advised the Panel that the following immigration convenience measures would be introduced from mid-2009 onwards to provide greater travel convenience for residents of HKSAR and MSAR -

- (a) automated immigration clearance through e-Channels would be made available mutually to enrolled HKSAR and MSAR permanent residents aged 11 or above visiting Macao and Hong Kong respectively as an additional clearance service for residents travelling between the two places, thus shortening the clearance time required;
- (b) for those HKSAR or MSAR permanent residents who preferred not to register for using the automated service, as well as those not eligible to be so registered, they might continue to go through immigration clearance at traditional counters. In the long run, the HKSAR Government aimed to further streamline the clearance process at the counters. It planned to waive the requirement for Macao permanent residents to produce the Declaration Forms for Holders of MSAR Permanent Resident Identity Card to HKSAR (the Declaration Forms) for visits to Hong Kong. Reciprocally, the Macao side would dispense with the existing requirement for HKSAR permanent residents to fill out arrival/departure cards. In other words, HKSAR and MSAR permanent residents traveling between the two places would be able to go through immigration clearance on the strength of their permanent identity cards solely; and
- (c) the limit of stay on each landing in Hong Kong for Macao permanent residents as visitors would be extended from 14 days to 180 days; and non-permanent residents (holders of Visit Permits for Residents of Macao to HKSAR) from 14 days to 30 days.

5. According to the Administration, the HKSAR Government aimed to implement the convenience arrangement as stated in paragraph 4(b) for persons aged 16 or above as from the second half of 2009. For those aged below 16, legislative amendments would be required before a similar requirement could be waived.

Discussion by the Panel on Security

6. At the Panel meeting on 7 April 2009, the Administration briefed Members on the progress of the implementation of the immigration convenience measures for Hong Kong and Macao residents travelling between the two places.

7. Members noted that SB and the Immigration Department (ImmD) had engaged in active discussions with the Identification Department of MSAR, the Office of the Secretary for Security of MSAR and the Immigration Department of the Macao Security Police on measures to further facilitate the flow of residents between the two places. It was the consensus of the HKSAR and MSAR Governments to introduce measures to enhance immigration convenience for residents of the two places.

8. During the course of discussion, some Members expressed concern about repeated cases of Hong Kong residents being refused entry into Macao. They were concerned whether the Macao authorities had refused the entry of Hong Kong residents because of their political views, and asked whether the Administration had taken the matter up with the Macao authorities.

9. The Administration responded that to its knowledge, the MSAR Government had its own immigration control. Nevertheless, in view of the wide public concern over the cases of Hong Kong residents being refused entry into Macao, the HKSAR Government had, through ImmD, approached the Macao authorities to understand the situation and to express its concern about the matter. In early March 2009, the Chief Executive himself had also expressed the concern of the HKSAR Government about the ways in which the MSAR Government handled the matter with the Chief Executive of MSAR.

10. Noting that about 2 100 Macao residents had been denied entry into Hong Kong between January 2008 and March 2009, some Members asked about the reasons for refusal of the entry of these people.

11. In response, the Administration advised that in exercising immigration control, each case was considered by ImmD on its own merits. Regarding those 2 100 Macao residents who had been refused entry in 2008, the majority of them were refused on the ground of failing to produce the Declaration Form. The Administration informed Members that in order to eliminate the situation whereby Macao visitors had to return to Macao merely because of not in possession of a Declaration Form, the HKSAR Government had assisted the Macao authorities to make arrangements for the installation of self-service kiosks at the Macao Ferry Terminal and the China Ferry Terminal to provide printing service on the spot for those Macao visitors who had not brought along the Declaration Forms.

12. Some Members said that the HKSAR Government had in the past prohibited members of certain groups or individuals with background associated with the democratic movement in China from entering Hong Kong. They queried whether a person's political inclination and religious belief had any impact on his application for entry.

13. The Administration stressed that during immigration examination on arrival, ImmD would consider whether the visitor met normal immigration requirements, such as whether he possessed a valid travel document, sufficient re-entry facilities to his place of residence and sufficient funds for the proposed stay, whether he had any

known adverse records, as well as his purpose of visit. ImmD would also consider whether his entry would not be conducive to the public interest. ImmD's procedures in processing entry applications were in line with the practices of the immigration authorities in many other places. In considering an entry application, ImmD would act in accordance with the law and prevailing policy, and take into account all relevant circumstances and factors on a case-by-case basis.

14. Responding to Members' enquiry on whether the Administration had a "black-list" of Macao residents visiting Hong Kong, the Administration replied in the negative, but advised that there was a "watch-list" of persons such as terrorists and wanted persons. According to the Administration, in order to uphold effective immigration control, the "watch-list" had been established for a long time. When intelligence indicated that a person's presence in Hong Kong might not be conducive to the public good of Hong Kong, his name might be put on the "watch-list". The appearance of a person's name on the "watch-list" did not mean that he would necessarily or automatically be refused entry. The "watch-list" was by no means a list of persons not allowed to enter Hong Kong; and was not a so-called "black-list". There were occasions where persons on the "watch-list" were allowed entry into Hong Kong after immigration examination.

15. Notwithstanding the enhanced immigration convenience measures proposed by the Administration, some Members took the view that unequal treatment continued to exist between Hong Kong and Macao. For instance, although the HKSAR Government had extended with effect from 16 February 2009 the limit of stay for MSAR permanent residents as visitors in Hong Kong from 14 days to 180 days, such a length of stay was much shorter than that enjoyed by HKSAR permanent residents as visitors in Macao who could enjoy a limit of stay of one year. These Members enquired about the rationale for the difference. Regarding the existing requirement for MSAR permanent residents to furnish the Declaration Forms on their arrival at Hong Kong, Members asked about the purpose of imposing such a requirement and the possibility of waiving the requirement for production of Declaration Form in the long run.

16. The Administration responded that Hong Kong residents as visitors in Macao had enjoyed the one-year-stay period for a long time. In considering measures to facilitate the visit of Macao residents to Hong Kong, the HKSAR Government had made an attempt to narrow the difference between Hong Kong and Macao in respect of the limit of stay. The extension of the limit of stay from the original 14 days to 180 days for MSAR permanent residents as visitors in Hong Kong was at present the longest period allowed for any visitors to stay in Hong Kong on each landing. The Administration also advised that every visitor to Hong Kong was required to have a valid travel document. As the Administration did not accept Macao Smart Permanent Identity Card as a valid travel document, MSAR permanent residents were therefore required to furnish the Declaration Forms for visits to Hong Kong. The Declaration Forms served as a travel document and thus chops were stamped on the document at the immigration checkpoints and offices to indicate the limit and any other conditions of stay imposed. In the long run, the Administration aimed to waive

the requirement for MSAR permanent residents visiting Hong Kong to produce the Declaration Forms. Reciprocally, the Macao side would dispense with the existing requirement for HKSAR permanent residents to fill out arrival/departure cards. In other words, HKSAR and MSAR permanent residents travelling between the two places would be able to go through immigration clearance solely on the strength of their permanent identity cards.

17. The Administration supplemented that the measure of allowing MSAR permanent residents to visit Hong Kong solely with their Macao Smart Permanent Identity Cards without the need to complete and furnish the Declaration Forms had to be complemented by the exercise of the Director of Immigration's discretionary power under the Immigration Ordinance (Cap. 115) to accept the Macao Smart Permanent Identity Card as a valid travel document, and the issuance of some form of document, such as printed notice, stating the limit of stay and such other conditions of stay imposed on a Macao resident if permission was given for him to land in Hong Kong.

18. Some Members expressed reservations about the exercise of the Director of Immigration's discretionary power under the Immigration Ordinance to accept Macao Smart Permanent Identity Card as a valid travel document. They considered it more appropriate for the Administration to introduce amendments to the law which mirrored such a decision.

19. The Administration explained that section 61(1) of Cap. 115 provided that a travel document should not be valid for the purposes of the Ordinance unless it bore a visa which was issued by or on behalf of the Director of Immigration and was in force on the date on which the person to whom the travel document related arrived in Hong Kong. While section 61(2) of the Ordinance empowered the Director to exempt any person or any class or description of person from section 61(1), the exercising of discretionary power by the Director of Immigration to grant exemption to holders of Macao Smart Permanent Identity Card was the simplest and easiest way to make Macao Smart Permanent Identity Card a valid travel document under this provision.

Relevant papers

20. Members may wish to refer to the following papers and minutes of meeting for more details -

Minutes

- (a) Minutes of the meeting of the Panel on Security on 21 October 2008 (LC Paper No. CB(2)524/08-09);
- (b) Minutes of the meeting of the Panel on Security on 7 April 2009 (LC Paper No. CB(2)1674/08-09));

Papers

- (c) Official Record of Proceedings of the Council meeting on 27 June 2008 on the motion moved by Hon Jasper TSANG Yok-sing on enhancing co-operation between Hong Kong and Macao;
- (d) The 2008-2009 Policy Address booklet entitled "Embracing New Challenges" issued on 15 October 2008;
- (e) Administration's paper entitled "Policy Initiatives of Security Bureau" (LC Paper No. CB(2)66/08-09(01));
- (f) Official Record of Proceedings of the Council meeting on 18 February 2009 on an oral question raised by Hon LEE Wing-tat on "Hong Kong residents being refused entry into Macao"; and
- (g) Administration's paper entitled "Immigration Convenience Measures for Hong Kong and Macao Residents Travelling between the Two Places" (LC Paper No. CB(2)1207/08-09(03)).

21. The above papers and minutes are available on the website of the Legislative Council (<http://www.legco.gov.hk>).

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