

To the Select Committee
On matters concerning investigation of the handling of duty visits,
official entertainment and gifts by Mr Timothy TONG
during his term as ICAC Commissioner

In response to the request made by the Select Committee Secretariat in paragraph 4 of its letter dated 30 January 2014 regarding the Major Areas of Study (MAS) (Annex 3 of the letter) of the Committee, I hereby make the following statement:

- First, the Audit Commission carried out an audit review on the work of preventive education and enlisting public support against corruption conducted by the Community Relations Department (CRD) of the Independent Commission Against Corruption (ICAC) between 2008 and 2012. The findings were published in Chapter 7 of the Report No. 60 of the Director of Audit released in March 2013. The Report also pointed out shortcomings of the ICAC, including two expenditure items of entertainment incurred during the tenure of Mr Timothy TONG, former Commissioner of the ICAC.
- Subsequent media extensive coverage on Mr TONG's handling of relevant issues then sparked grave public concern. The Chief Executive therefore announced the establishment of the Independent Review Committee (IRC) to review ICAC's regulatory systems and procedures for handling official entertainment, gifts and duty visits on 2 May 2013 and to review the compliance of ICAC staff of all ranks during the term of the former Commissioner with the regulatory systems and procedures. The IRC released its review findings on 12 September 2013 with recommendations made to the ICAC to improve and rectify its shortcomings.
- As members of the public lodged openly complaints concerning the matter to the ICAC for suspected corrupt practices, and having sought legal advice from the Department of Justice, the ICAC made an announcement on 14 May 2013 that it would take follow-up actions by commencing an investigation. The investigation is conducted by a Special Investigating Unit which is directly under my command. The Unit is required to report to the independent "Operations Review Committee" which oversees its work on the progress of investigation and findings. Meanwhile, the investigation is on-going.

- On the other hand, the Public Accounts Committee (PAC) also conducted open hearings on the ICAC's shortcomings as referred to in the Report No.60 of the Director of Audit. Apart from written submissions, I, together with my colleagues, attended 4 PAC hearings as witnesses. Abundant documents, questions, replies and records were involved in those meetings. The conclusions and recommendations of the PAC were set out in its Report No. 60A released in November 2013. In addition, to support the work of the Select Committee, I, upon request, also provided the Secretariat on 8 November 2013 with a full set of information, including records and all documents that we had submitted to the PAC.
- Subsequent to media reports on the inaccuracies and omissions of information on some souvenir items provided by the Commission to the Legislative Council Finance Committee (FC), I immediately deployed over 20 staff members to conduct a comprehensive manual check of over 25,000 records of payment and vouchers kept in more than 600 document files. Later, the ICAC came to realize that in fact some items of food and gifts were omitted in our reply to the FC. On 27 May 2013 when I attended the meeting with the Panel on Security of the Legislative Council, I gave a full explanation on the omissions. Besides, in response to the question raised by the Select Committee Secretariat, I also gave a reply on the matter on 6 September 2013. The ICAC did not conceal any information in this matter.
- I must reiterate that in the letter to the Chairman of the PAC, Hon. Mr Abraham SHEK Lai-him, SBS, JP, dated 24 May 2013, by the Director of Public Prosecutions, the PAC was reminded that the investigation into Mr TONG, which is directly under my supervision, should be conducted fairly and impartially, so that the public can witness a fair and impartial investigation, and so this is a basic principle. Therefore, no matter it is in the provision of information to the Select Committee or being a witness at its hearings, I must comply with this basic principle and ensure that the integrity of the investigation will not be tarnished or impaired.
- Therefore, regarding the "MAS" of the Select Committee, I explicitly indicated in writing to the Select Committee on 6 September 2013 that as paragraphs I(b) to I (e) fell into the scope of criminal investigation into Mr TONG, the ICAC could not provide the relevant information. Nevertheless, on the conditions that the integrity, fairness and justice of the criminal investigation will not be compromised, the ICAC is ready to cooperate fully with the Select Committee in its work.

- The ICAC have accepted recommendations of the Director of Audit, IRC and PAC, and have taken steps to implement all the improvement measures to perfect relevant policies and systems, rectify shortcomings and enhance internal governance and supervision. Besides, an Internal Audit Unit was established in November 2013, ensuring that every department is subject to internal auditing. We also submit to the Advisory Committee on Corruption regular reports in relation to the Commissioner's entertainment, gifts and duty visits as well as the Commission's internal audit reports, so as to tighten up monitoring of the ICAC's governance.

Simon Y L PEH
Commissioner of the
Independent Commission Against Corruption

19 February 2014