

立法會
Legislative Council

LC Paper No. CB(2)2090/14-15
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 7 July 2015, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Hon NG Leung-sing, SBS, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Cyd HO Sau-lan, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Claudia MO
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Kenneth LEUNG
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, JP
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Members absent : Hon Michael TIEN Puk-sun, BBS, JP
Hon Frankie YICK Chi-ming, JP
Dr Hon Kenneth CHAN Ka-lok
Hon LEUNG Che-cheung, BBS, MH, JP

Public Officers attending : Item III

Mr John LEE Ka-chiu, PDSM, PMSM, JP
Under Secretary for Security

Mrs Erika HUI LAM Yin-ming, JP
Commissioner for Narcotics

Miss Rosalind CHEUNG Man-yee
Principal Assistant Secretary for Security
(Narcotics) 1

Mr Hermes TANG Yi-hoi, CMSM
Assistant Commissioner (Boundary and Ports)
Customs and Excise Department

Item IV

Mr John LEE Ka-chiu, PDSM, PMSM, JP
Under Secretary for Security

Mr Billy WOO
Principal Assistant Secretary for Security D

Mr FUNG Pak-ho
Assistant Director of Immigration
(Enforcement and Removal Assessment)

Item V

Ms Mimi LEE, JP
Deputy Secretary for Security 1

Mr Vic YAU
Principal Assistant Secretary for Security A

Captain Michael CHAN, MBS, MBB, GMSM, AE
Controller
Government Flying Service

Captain Karl CHAN
Chief Pilot (Operations) (Acting)
Government Flying Service

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Mr Timothy TSO
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2) 7

Ms Mina CHAN
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper Nos. CB(2)1768/14-15 and CB(2)1830/14-15)

The minutes of the meetings held on 5 May and 2 June 2015 were confirmed.

II. Information papers issued since the last meeting
(LC Paper Nos. CB(2)1785/14-15(01) and CB(2)1839/14-15(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) letter dated 19 June 2015 from Mr Paul TSE regarding intimidation and nuisance relating to financial intermediaries; and

Action

- (b) Administration's interim response to issues raised in the letter dated 19 June 2015 from Mr Paul TSE.

III. Public consultation on the establishment of a reporting system on the physical cross-boundary transportation of large quantities of currency and bearer negotiable instruments
(LC Paper Nos. CB(2)1832/14-15(01) and (02))

3. Under Secretary for Security ("US for S") briefed members on the framework of the Administration's proposal to establish a reporting system for the physical cross-boundary transportation of large quantities of currency and bearer negotiable instruments ("CBNIs").
4. Members noted the information note entitled "Public consultation on the establishment of a reporting system on the physical cross-boundary transportation of large quantities of currency and bearer negotiable instruments" prepared by the Legislative Council ("LegCo") Secretariat.

The need for establishing the proposed system

5. Mr James TO said that as there were many channels for detection of money laundering, there was not a need to introduce the proposed declaration and disclosure system. He also queried why the proposed system did not cover the posting of CBNIs via the postal system in Hong Kong.
6. Dr CHIANG Lai-wan expressed doubt about the need for the proposed declaration and disclosure system, given that the proposed measures might cause inconvenience to passengers and the existing regime had already enabled LEAs to combat money laundering effectively. She also queried the effectiveness of the proposed declaration and disclosure system in combating money laundering.
7. Mr Christopher CHUNG queried why there was a need for the proposed declaration and disclosure system, given that it had not been implemented in the past.
8. Mr YIU Si-wing asked whether there were other reasons, such as increased money laundering activities, besides the recommendation of the Financial Action Task Force ("FATF") which led to the need for establishing the proposed declaration and disclosure system.

Action

9. Mr LEUNG Kwok-hung queried the effectiveness of the proposed reporting requirement in tackling money laundering.

10. US for S responded that as a member of FATF, Hong Kong had an obligation to implement FATF's recommendations. Recommendation 32 of FATF ("R32") required member jurisdictions to establish by statute a system to detect and prevent illicit physical cross-boundary transportation of CBNIs ("R32 System"). Hong Kong was the only FATF member jurisdiction which had not yet introduced an R32 System. He said that many non-FATF members, including Vietnam, the Philippines, Indonesia and Malaysia, had also implemented R32.

11. US for S advised that the proposed declaration and disclosure system was only one of the bundle of measures for combating money laundering. Other examples in the Hong Kong regime included the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance ("AMLO") (Cap. 615), which set out relevant anti-money laundering ("AML") and counter terrorist financing ("CFT") requirements on financial institutions. To ensure that the system proposed for Hong Kong could operate smoothly and effectively, the Administration considered it prudent to study overseas experience and consult the relevant sectors before drawing up proposals on the establishment of an R32 System in Hong Kong.

12. Mr KWOK Wai-keung considered that Hong Kong should introduce an R32 System to fulfil its obligations as a member of FATF. He sought information on the value of CBNIs involved in previous cases of cross boundary transportation of large quantities of CBNIs intercepted by law enforcement agencies ("LEAs"). US for S responded that there had not been any case of such a nature, as there were currently no reporting requirements on passengers who brought large quantities of CBNIs into Hong Kong.

13. Mr WONG Yuk-man considered that the proposed declaration and disclosure system could not effectively tackle money laundering. It would only catch passengers who forgot to make declaration but not Mainland persons who brought huge sums of cash into Hong Kong. He considered that the existing requirements for depositors to explain the source of cash were inconsistent with the common law principle of presumption of innocence.

Action

14. US for S reiterated that the proposed declaration and disclosure system was only part of the Administration's efforts to combat money laundering, which nevertheless would provide important check and balance in deterring the flow of illicit funds.

Statistics relating to money laundering

15. Dr Fernando CHEUNG expressed support for combating money laundering. He pointed out that there were about 32 900 and 37 200 money laundering cases in 2013 and 2014 respectively and sought information on the percentage of such cases which involved cross-boundary transportation of large quantities of CBNIs.

16. US for S advised that the statistics referred to by Dr Fernando CHEUNG were the number of suspicious transactions reported in 2013 and 2014 respectively. The number of persons prosecuted for money laundering-related charges were 172 in 2013 and 219 in 2014, whereas the numbers of convicted cases were 140 in 2013 and 151 in 2014 respectively. He said that assets valued at about \$1 billion and \$30 million had been frozen and confiscated respectively in 2014 in connection with money laundering.

17. Dr CHIANG Lai-wan asked how cases of money laundering had been identified. US for S quoted the following examples in response -

- (a) reports of suspicious transactions by relevant agencies;
- (b) intelligence-led operations of LEAs and the Independent Commission Against Corruption;
- (c) detection of drug-trafficking cases; and
- (d) customs operations at control points.

18. Dr Fernando CHEUNG pointed out that the number of suspicious transactions reported by estate agents in 2014 had increased by 140% over the previous year. He sought information on the measures adopted by the Administration to combat the problem. Commissioner for Narcotics ("C for N") responded that the number of suspicious transactions reported by estate agents had increased as a result of the Administration's publicity and capacity-building efforts with the relevant sectors, including estate agencies, law firms, accounting firms, trust and company service providers, and dealers of precious metals and precious stones, so as to enhance their awareness on AML/CFT issues and increase their capacity in handling related matters.

Action

Coverage of CBNIs

19. Mr Kenneth LEUNG expressed support in principle for the Administration's proposal. He sought information on the coverage of CBNIs and asked whether they included casino tokens.

20. Mr Christopher CHEUNG asked whether CBNIs included share certificates and cheques without the bearer's name.

21. US for S advised that CBNIs included monetary or negotiable instruments such as traveller cheques, cash cheques, promissory notes and money orders in such form that title to these instruments passes upon delivery. FATF had not given advice on whether CBNIs included casino tokens and share certificates. The Administration welcomed views on the issue in the public consultation exercise. The Administration also welcomed views on the coverage of CBNIs under the proposed declaration and disclosure system.

Designated threshold for declaration and disclosure

22. Mr James TO considered that if the proposed declaration and disclosure requirements were to be introduced, the designated threshold should be substantially increased to minimise inconvenience to passengers.

23. Mr YIU Si-wing asked whether the designated threshold could be raised, given the large number of passengers entering and leaving Hong Kong daily.

24. Mr Christopher CHEUNG expressed support for the Administration's proposal. He considered that the proposed designated threshold of \$120,000 was too low and should be raised to \$200,000 or \$300,000.

25. US for S advised that the designated threshold of \$120,000 was proposed in accordance with FATF's recommendation. It was higher, i.e. more lenient, than those of many other jurisdictions, including the United States of America, the United Kingdom, Australia and Singapore, which were equivalent to around \$78,000, \$86,000, \$62,000 and \$117,000 respectively. He pointed out the proposed threshold of \$120,000 would indeed offer greater compliance convenience to the relevant parties as the same local threshold had also been adopted by

Action

other AML/CFT measures under AMLO. Nevertheless, the Administration would consider the views expressed by members on the designated threshold.

Difference in declaration and disclosure requirements for incoming and outgoing passengers

26. Mr James TO queried why different declaration and disclosure requirements were proposed for incoming and outgoing passengers. US for S said that the arrangement was proposed having regard to the existing customs clearance arrangements where different measures for incoming and outgoing passengers would be adopted on a risk-based approach.

27. Noting that an outgoing passenger would be subject to a disclosure requirement whereas an incoming passenger would be subject to a declaration requirement, Mr Christopher CHUNG expressed concern about whether a Hong Kong resident who carried cash exceeding the designated threshold out of Hong Kong for travel and brought most of it back to Hong Kong might face difficulties in proving the source of such cash on his return to Hong Kong. US for S responded that in general, a passenger would not be required to explain the source of CBNI's declared or disclosed, unless his case was one in which it was necessary to do so for countering money laundering or terrorist financing activities. He stressed that the proposed declaration and disclosure system would not affect the legitimate flow of funds into and out of Hong Kong.

Penalty for violation of the proposed declaration and disclosure requirements

28. Mr KWOK Wai-keung said that consideration should be given to introducing a grace period in imposing penalty on the violation of the reporting requirements. His view was shared by Mr YIU Si-wing. The Chairman suggested that during the grace period, passengers found in violation of the reporting requirements for the first time should be warned only. US for S advised that the Administration was open to such suggestions.

29. Mr LEUNG Kwok-hung considered that a person who violated the proposed requirements should not be convicted if there was reasonable excuse. He also asked whether a person who violated the proposed reporting system would be liable on conviction to imprisonment.

Action

30. US for S responded that there were overseas examples in which non-compliance would lead to imprisonment. The Administration proposed to introduce a fixed penalty for first-time offenders who had not committed any money laundering or terrorist financing offences in the past. For other offenders, the penalty would generally be heavier, subject to court proceedings. He said that the Administration welcomed views on the penalty levels.

31. Mr CHAN Chi-chuen considered that while Hong Kong had a responsibility to fulfil international obligations, the measures to be adopted should not cause much inconvenience to passengers. He asked whether it would be a violation of the proposed reporting requirements if CBNIs exceeding the designated threshold were broken down into smaller amounts below the designated threshold and carried by different persons. US for S responded that in working out the details of the proposed declaration and disclosure system, the Administration was mindful about the need to minimise any inconvenience that might be caused to the general passengers. In this connection, the intention was to exclude persons carrying CBNIs not exceeding the designated threshold from the declaration requirements so as to minimise disturbance to the general passengers.

Other issues

32. Mr KWOK Wai-keung expressed concern about the Administration's publicity on the reporting requirements upon implementation. C for N responded that publicity on the reporting requirements would be launched at control points. Suitable arrangements would be made with relevant transport operators.

33. Mr Kenneth LEUNG asked whether all cases of failure to comply with the proposed declaration or disclosure requirements would be referred to the Joint Financial Intelligence Unit for further investigation. US for S responded that LEAs would not initiate investigation into a person's involvement in money laundering merely on the fact of his failure to make declaration under the proposed system.

34. Mr Christopher CHUNG expressed concern about the impact of the proposed declaration and disclosure system on tourists who visited Hong Kong. Mr MA Fung-kwok said that many Mainland visitors had the habit of bringing large quantities of cash when travelling. He asked whether the Administration had carried out a survey on the average amount of cash carried by Mainland visitors and the resource implications of the proposed declaration and disclosure system.

Action

35. US for S responded that the Administration was aware of the need to take into account domestic circumstances when setting the designated threshold. The additional resources required for implementation would depend on the volume of passengers who make declarations and disclosures under the proposed system.

36. Mr KWOK Wai-keung expressed concern about the personal safety of passengers who had declared bringing large quantities of CBNI with them. US for S responded that regardless of whether the reporting requirements were in place, steps were taken by LEAs to protect the personal safety of passengers.

IV. Unified screening mechanism for non-refoulement claims
(LC Paper Nos. CB(2)1832/14-15(03) and (04))

37. US for S briefed members on the latest development of the unified screening mechanism ("USM") to screen non-refoulement claims by foreigners resisting removal to another country.

38. Members noted the background brief entitled "Unified Screening Mechanism" prepared by the LegCo Secretariat.

Time needed for determination of all outstanding non-refoulement claims pending screening

39. Dr CHIANG Lai-wan expressed concern that with the Administration's current rate of determining about 2 000 non-refoulement claims in a year, about five years would be needed for the determination of all 9 884 claims pending screening.

40. US for S responded that with the revised measures referred to in paragraph 14 of the Administration's paper, the time needed for determination of a claim would be reduced. Separately, the Duty Lawyer Service, which provided publicly-funded legal assistance to claimants, had also agreed that the number of new claims referred to it for handling would be increased from eight per day to 11.

41. Dr CHIANG Lai-wan asked whether all claims were determined by the court. US for S said that non-refoulement claims were determined by the Immigration Department ("ImmD") under procedures which met high standards of fairness as required by the court.

Action

42. Noting that eight claims had been substantiated after the commencement of USM, Dr Fernando CHEUNG expressed concern about the number of families involved in these eight claims and the nature of the claims concerned. US for S responded that indeed the percentage of substantiated claims was low, and many claimants had been arrested for taking up illegal employment in Hong Kong. He supplemented that under normal circumstances, the screening of a non-refoulement claim took about 25 weeks under the existing mechanism. The enhancement measures referred to in the Administration's paper would shorten it to about 15 weeks.

43. Dr Elizabeth QUAT expressed concern that the number of new non-refoulement claims had increased from about 100 cases per month before the implementation of USM to about 400 cases per month after the implementation of USM. She also expressed concern that the number of new non-refoulement claims had increased by about 4 600 between March and December 2014. She said that the lengthy time needed for determining all outstanding non-refoulement claims might attract more persons to abuse the existing regime. There was a pressing need to determine the outstanding claims as soon as possible.

44. Ms Emily LAU said that the United Nations Committee Against Torture would hold a hearing in November 2015 on the third periodic report of the Hong Kong Special Administrative Region under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. She considered that Hong Kong should fulfil its international obligations regarding torture and refugee claims and the screening of such claims should meet a high standard of fairness.

45. Mr KWOK Wai-keung expressed concern that the existing USM regime was abused by claimants who took up illegal employment in Hong Kong and most claimants did not lodge a claim until they were intercepted or arrested by the Police or ImmD. He said that even if the time needed for determination of a claim was shortened to 15 weeks, about three years would still be needed for determination of all the outstanding claims.

46. Noting that the enhancement measures referred to in the Administration's paper would enable a claim to be determined in about 15 weeks, Mr YIU Si-wing asked whether the 15-week period could be further shortened. He also sought information on the percentage of savings in annual expenditure relating to USM and reduction in the total time needed for screening the 9 884 outstanding claims. Noting that claimants in Canada were only given 15 days to complete a claim form,

Action

he asked whether the time allowed for a claimant to complete a claim form could be reduced to, say, one month.

47. US for S responded that the Administration hoped to screen the pending claims as soon as possible. He explained that USM was a hybrid mechanism where the ground of torture was screened pursuant to statute, whereas other applicable grounds for non-refoulement were screened administratively under the same set of guidelines and procedures, which followed the existing statutory torture claim screening mechanism. He said that four weeks were allowed under the statutory torture claim screening mechanism for a claimant to complete a claim form. The legal profession had requested an additional three weeks for a claimant to complete a claim form under USM, thus giving a total of seven weeks for a claimant to return a claim form, which the Administration had agreed for the smooth commencement of USM. The Administration would consider reviewing the time allowed for a claimant to complete a claim form, after implementation of the enhancement measures. He added that the Administration would consider underpinning USM by way of statute after accumulation of experience. While a fee cap had been imposed in many other common law jurisdictions on legal assistance to claimants, there was currently no such cap in Hong Kong.

48. Dr Fernando CHEUNG said that the percentage of substantiated non-refoulement claims determined by ImmD, which was around 0.5%, was very low in comparison with those of other countries. He pointed out that the percentage of substantiated non-refoulement claims in Australia was between 25% and 40%, that in Canada was 38% and that of the United Nations High Commissioner for Refugees ("UNHCR") was more than 30%. He considered that the Administration should carry out a review on USM. US for S responded that whether a person's non-refoulement claim was substantiated depended on the individual circumstances of his case as well as the situation in his country of origin. He said that the existing regime, which provided an avenue for aggrieved claimants to appeal as well as publicly-funded legal assistance for claimants, had met the high standards of fairness required by the court.

Training on handling of non-refoulement claims for the legal profession

49. Mr Dennis KWOK said that the Administration should speed up the screening of non-refoulement claims by allocating more resources for the training of duty lawyers in handling of non-refoulement claims. Mr KWOK said that he had prepared a list of written questions on USM, which was tabled at the meeting, for a response by the Administration.

Action

Members agreed that the list of questions provided by Mr Dennis KWOK be forwarded to the Administration for a written response.

(Post-meeting note: The list of questions tabled at the meeting was circulated to members vide LC Paper No. CB(2)1875/14-15(01) on 10 July 2015.)

50. Ms Emily LAU considered that training on USM could be provided to more lawyers.

51. Principal Assistant Secretary for Security D ("PAS(S)D") advised that training on the handling of non-refoulement claims for duty lawyers was provided by the Law Society of Hong Kong and the Hong Kong Bar Association with the support of the Administration. He said that about 500 duty lawyers had already received relevant training.

Whether a claimant who had entered Hong Kong illegally or overstayed could be removed from Hong Kong

52. Noting from the Administration's paper that 43% of claimants had entered Hong Kong illegally, Mr MA Fung-kwok said that the Administration should combat the problem at source and strengthen its efforts to intercept illegal immigrants. US for S responded that efforts were made by LEAs to intercept illegal immigrants.

53. Mr LEUNG Kwok-hung asked whether an illegal immigrant or overstayer could be removed from Hong Kong, once he had lodged a non-refoulement claim. Ms Cyd HO expressed concern about reports that many claimants had travelled via the Mainland to Hong Kong and asked whether these claimants could be repatriated to the Mainland.

54. US for S responded that once a non-refoulement claim had been lodged, the Director of Immigration was required, according to the ruling of the Court of Final Appeal, to independently determine whether the claim was substantiated before executing removal.

Profile and country of origin of claimants

55. Mr MA Fung-kwok said that the determination of claims should be completed as soon as possible to prevent abuse. He asked whether the profile of claimants in Hong Kong was similar to those in other countries. Regarding claimants whose claims had been determined under USM, he expressed concern about the average time period for which the claimants had remained in Hong Kong.

Action

56. US for S responded that 75% of claimants in Hong Kong were male and 95% were adults above the age of 18. Most of the claimants came from countries other than those recorded to have the largest number of refugees, according to UNHCR's statistics. The number of successful claims amounted to about 0.5% of all determined claims. Some claimants had been arrested for taking illegal employment in Hong Kong. He informed members that claimants had remained in Hong Kong for 13 months on average before lodging a claim. For overstayers, the average was 19 months.

57. Noting that most claimants came from South or Southeast Asia, with Pakistan, India, Vietnam, Bangladesh and Indonesia ranking the top five, Dr Elizabeth QUAT said that these countries were not in war and there were concerns about claimants' abuse of the existing regime to remain in Hong Kong. US for S responded that according to latest statistics released by UNHCR, refugees originated mostly from Syria, Afghanistan, Somali, Sudan and South Sudan.

58. Ms Cyd HO said that Hong Kong should fulfil its international obligations regarding torture and refugee claims. Referring to the 250% increase in the number of new claims referred to in paragraph 8 of the Administration's paper, Ms Cyd HO sought information on the places from which the claimants concerned had come to Hong Kong.

59. US for S responded that some claimants had travelled from their country of origin to Hong Kong directly, while others had travelled via another place to Hong Kong. He said that LEAs had put great efforts in intercepting illegal immigrants. Intelligence was exchanged between LEAs and relevant Mainland authorities to combat illegal immigration.

60. Mr CHAN Kin-por expressed support for the Administration's proposal. He said that although the percentage of substantiated non-refoulement claims was low, the long waiting time before a claim was determined would expose the existing regime to abuse by claimants. He expressed concern about reports that some claimants had lodged non-refoulement claims immediately upon their arrival at the Hong Kong International Airport, where lawyers were waiting to provide immediate assistance. He considered that the Administration should combat the problem at source.

Action

61. US for S responded that the low percentage of substantiated claims reflected that a number of the claimants had lodged a claim for remaining in Hong Kong probably for economic reasons. He said that LEAs had been combating illegal employment through efforts directed at both employees and employers who unlawfully employed the claimants.

Time limit for lodging a claim

62. Noting that overstayers had remained in Hong Kong for 19 months on average before lodging a claim, Mr Kenneth LEUNG asked whether a time limit for lodging a claim was imposed in other jurisdictions. PAS(S)D responded that there were countries which imposed a statutory time limit for the lodging of a claim. Mr LEUNG suggested imposing a time limit of nine to 12 months within a claimant's arrival in Hong Kong for the lodging of a claim. US for S agreed that the suggestion could be further considered.

Expenditure for the screening and provision of support to claimants

63. Mr YIU Si-wing expressed concern that Hong Kong had to bear an annual expenditure of about \$644 million for the screening and provision of support to claimants, but only eight out of 1 873 claims screened under USM had been substantiated.

64. Mr KWOK Wai-keung expressed concern that the estimated expenditure arising from the screening of claims and provision of various support to claimants would amount to \$644 million in 2015-2016. Noting that a cap was imposed in the United Kingdom, Australia, New Zealand and selected provinces of Canada on publicly-funded legal assistance to claimants, he queried why a cap was not imposed in Hong Kong on publicly-funded legal assistance to claimants.

65. Mr Paul TSE considered that USM, which had been drawn up having regard to relevant key court rulings, was well above the humanitarian standard of many countries in which human rights was highly respected. He said that consideration should be given to the circumstances of Hong Kong in the screening of non-refoulement claims.

66. Dr Elizabeth QUAT expressed concern that expenditure arising from the screening of claims and provision of various support to claimants was increasing at the rate of about \$100 million per year and queried whether Hong Kong could afford such an increase. She

Action

considered that the Administration should take prompt actions to prevent abuse by those who lodged a non-refoulement claim for the purpose of taking up illegal employment in Hong Kong.

67. US for S advised that the Administration considered it more prudent to deliberate on a mechanism that best fitted Hong Kong before underpinning it by way of legislation. Many countries had imposed statutory limit on publicly-funded legal assistance to claimants and the Administration would study such overseas experience before drawing up proposals.

Actions against employers involved in the illegal employment of claimants

68. Mr KWOK Wai-keung said that the statistics provided in the Administration's paper reflected that there was abuse of USM by claimants who took up illegal employment in Hong Kong. He asked whether penalty had been imposed on employers for illegal employment of non-refoulement claimants. Assistant Director of Immigration (Enforcement and Removal Assessment) ("AD of Imm (E&RA)") responded that in the first five months of 2015, 35 employers had been arrested for illegal employment of non-refoulement claimants and 16 of these employers had been prosecuted. He said that an employer engaged in illegal employment was liable on conviction to a maximum fine of \$350,000 and three years' imprisonment.

Non-refoulement claimants convicted of crime in Hong Kong

69. Dr Elizabeth QUAT expressed concern about media reports regarding arrests of claimants for rape or drug-related offences. US for S advised that among the crime committed by claimants, about 33% were related to burglary or theft, 25% were related to assault or fighting and 17% were related to drug offences. About 100 to 200 claimants had been arrested per year for taking up illegal employment. He said that the Administration was concerned about the crime rate of claimants, which had increased by about 25% in the first five months of 2015 over the preceding year.

70. Mr CHAN Kin-por expressed concern about the crime rate of claimants and asked whether arrangements could be made for claimants to be accommodated together in a specified area to facilitate management. US for S responded that the Court of Final Appeal had ruled that claimants might only be detained for a period that was reasonable in all circumstances.

Action

71. Mr KWOK Wai-keung asked whether a claimant convicted of crime in Hong Kong would be immediately repatriated. US for S responded that the conviction of a claimant and his non-refoulement claim were separate issues which had to be dealt with separately.

Other issues

72. Mr Dennis KWOK asked whether education was provided to all minors of non-refoulement claimants. PAS(S)D responded that schooling applications from minors of non-refoulement claimants were handled by the Education Bureau having regard to the circumstances of individual cases, upon confirmation with ImmD that they would unlikely be removed from Hong Kong in the near future.

73. Ms Emily LAU asked whether there had only been eight substantiated claims among all claims determined. She also asked whether the claimants of the eight substantiated non-refoulement claims had been referred to UNHCR for resettlement in other countries.

74. US for S responded that before the commencement of USM, 24 torture claims had been substantiated. After the commencement of USM in March 2014, eight non-refoulement claims had been substantiated, among which six had been referred to UNHCR for consideration of recognition as refugee under its mandate and arrangement for resettlement in another country. AD of Imm (E&RA) added that non-refoulement claimants whose claims had been substantiated would be allowed to remain in Hong Kong and their removal would be withheld until their claimed risk ceased to exist. Where a non-refoulement claim was substantiated on grounds of, inter alia, persecution risks, the claimant would be referred to UNHCR for consideration of recognition as refugee and arrangement of resettlement to a third country.

75. Mr Kenneth LEUNG asked whether adequate interpretation service was provided to claimants. US for S responded that while interpretation service was provided to claimants, difficulties were sometimes encountered in the provision of interpretation for local dialects which had few interpreters in Hong Kong.

76. Dr Fernando CHEUNG considered that non-refoulement claimants, who had to remain in Hong Kong for a long period of time while awaiting the screening of their claims, should be allowed to lead a meaningful life in Hong Kong while awaiting the screening of their claims, by allowing them to undertake work or voluntary service.

Action

77. Mr Dennis KWOK said that consideration should be given to allowing non-refoulement claimants to participate in the provision of voluntary service. US for S advised that he would convey the suggestion to ImmD.

V. Long range search and rescue service of the Government Flying Service

(LC Paper Nos. CB(2)1832/14-15(05) and (06))

78. Deputy Secretary for Security 1 briefed members on the Administration's paper on the search and rescue service of the Government Flying Service ("GFS"). With the aid of powerpoint presentation, Controller, Government Flying Service ("C/GFS") briefed members on the long range search and rescue operations of GFS.

79. Members noted the information note entitled "Long range search and rescue service of the Government Flying Service" prepared by the LegCo Secretariat.

80. Referring to Annex IV to the Administration's paper, Mr MA Fung-kwok asked why the number of call-outs for long range search and rescue had been remained at about the same level while the number of call-outs for other types of service had generally increased over the past few years.

81. C/GFS responded that long range search and rescue operations, which were coordinated by the Hong Kong Maritime Rescue Co-ordination Centre, had remained at about the same level in the past few years probably because of generally enhanced safety awareness in the community.

82. Noting that the cruising speed of the two Challenger 605 ("CL605") fixed-wing aircrafts procured by GFS would be much higher than that of the existing J-41 fixed-wing aircrafts, Mr MA Fung-kwok asked whether such a higher cruising speed would pose a problem to rescue operations, such as in the dropping of air droppable equipment. C/GFS responded that search operations were performed by the existing J-41 fixed-wing aircrafts at a height of 300 feet and a speed of 160 knots. The dropping of air droppable equipment by J-41 fixed-wing aircraft was performed at a height of 100 to 150 feet and a speed of about 130 knots. The capability to perform these tasks at similar heights and speeds had been laid down as a requirement in the tender documents for the new CL605 fixed-wing aircrafts.

Action

83. Mr MA Fung-kwok asked whether the existing GFS fleet was adequate. C/GFS responded that the existing aircraft and helicopter fleet of GFS was adequate for meeting existing operational needs. He said that the adequacy of the existing GFS fleet was constantly reviewed. GFS would apply for additional resources, if necessary, in accordance with the established mechanism.

84. Mr YIU Si-wing asked whether the endurance constraint of GFS aircraft would be adequate for performing rescue operations up to a distance of 1 300 km from Hong Kong. C/GFS responded that the radius of action of fixed-wing aircraft was 1 300 km with 30 minutes on scene time and the radius of action of Super Puma helicopters of GFS was 550 km. In the event that a rescue scene was beyond the radius of action of helicopters, a fixed-wing aircraft would coordinate the efforts of ships at the scene to carry out rescue operations.

85. Referring to paragraph 8 of the Administration's paper, Mr YIU Si-wing asked whether the contractor would bear all the additional costs and losses arising from the delayed delivery of the two CL605 fixed-wing aircraft. C/GFS responded that the technical problems encountered by the two CL605 fixed-wing aircraft had been resolved and it was expected that the relevant certificates would be issued by the end of 2015. As the contract called for the delivery of two new CL605 fixed-wing aircraft that met all the specified requirements, the contractor would bear all the costs associated with the modification or redesign of the relevant components. He said that any claim for losses arising from the delayed delivery would be made in accordance with the terms of the contract concerned and the advice of the Department of Justice.

86. The Chairman asked whether there were difficulties in operating the existing J-41 fixed-wing aircraft beyond their scheduled service life span. C/GFS responded that although the existing J-41 fixed-wing aircraft were originally scheduled to retire around 2013 and 2014, the procurement of spare parts for these existing aircraft had been less difficult than expected. It was envisaged that the operation of these existing fixed-wing aircraft could continue until mid-2016, by which time the new CL605 fixed-wing aircraft should have been delivered.

87. The Chairman asked how the two existing J-41 fixed-wing aircraft would be disposed of when the two new CL 605 fixed-wing aircraft were fully operational. C/GFS responded that the two existing J-41 fixed-wing aircraft would be sold by public tender.

Action

88. The Chairman said that Mr Kenneth LEUNG had indicated intention to move a motion under the agenda item. He ruled that the motion was directly related to the agenda item in accordance with Rule 22(p) of the House Rules and said that the motion would be dealt with in the latter part of the meeting.

[To allow sufficient time for discussion, the Chairman advised that the meeting would be extended to 5:45 pm.]

89. Mr Kenneth LEUNG moved the following motion -

"本事務委員會對政府飛行服務隊的工作，予以肯定及感謝。"

(Translation)

"That this Panel affirms and acknowledges the work done by the Government Flying Service."

90. The Chairman put Mr Kenneth LEUNG's motion to vote. 10 members voted in favour of the motion and no member voted against the motion. Three members did not vote. The Chairman declared that the motion moved by Mr Kenneth LEUNG was carried.

91. The Chairman said that a visit would be arranged for members to better understand the operations of GFS.

92. There being no other business, the meeting ended at 5:35 pm.