

LC: CS presents Government Minute in response to Annual Report of The Ombudsman 2018

Following is the speech (translated from Chinese) by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in presenting the Government Minute in response to the Annual Report of The Ombudsman 2018 in the Legislative Council today (December 12):

President,

Today, I submit the Government Minute (GM) responding to the recommendations set out in the Annual Report of The Ombudsman 2018 (the Annual Report).

The Ombudsman summed up 12 direct investigation and 195 full investigation cases and made a total of 209 recommendations in the Annual Report. The GM responds to the 10 direct investigation and 83 full investigation cases where recommendations were made by The Ombudsman. Government departments and relevant public bodies accepted most of The Ombudsman's recommendations, and follow-up actions have been or are being taken accordingly. As for individual recommendations that were not accepted, relevant departments or public bodies have given an account to The Ombudsman, explaining their difficulties or other follow-up actions taken in response to relevant issues.

In 2017-18, the Office of The Ombudsman (the Office) handled nearly 4 800 complaints by way of inquiry, full investigation or mediation. Of these, 237 cases were concluded by mediation, representing a rise of over five folds as compared to 2013-14; while the number of participating Government departments and public bodies went up from 11 half a decade ago to 28 last year. I am most thankful to The Ombudsman for promoting mediation and bringing in a breath of fresh air. Many complaints involving no or only minor maladministration can be settled quickly with satisfactory outcomes for all parties by this speedy, convenient and amicable approach. I encourage more Government departments and public bodies to resolve disputes with the public by mediation as far as possible. With the Apology Ordinance coming into effect in December last year, departments and public bodies should also offer apologies, where appropriate, for the inconvenience and nuisance experienced by the public.

Over the past four years, the Office has furthered its emphasis on direct investigation. Apart from a significant increase in the number of direct investigations completed each year, the Office was committed to examining public administration issues with extensive and profound impact on Hong Kong people, as well as exploring long-term solutions in collaboration with Government departments. The Office made a total of 63 recommendations in

10 of the 12 direct investigations completed last year. As mentioned by The Ombudsman in the Annual Report, direct investigation reports catalysed changes in Government policies and measures in recent years. As a catalyst for enhancing the quality of public administration, the Office is a powerful change agent. Government departments and public bodies were also receptive to the Office's recommendations, and actively improved the quality and effectiveness of their services, thereby enhancing operation efficiency and responsiveness to public needs.

For instance, after conducting a direct investigation into the criteria and procedures for procurement and withdrawal of library materials by the Leisure and Cultural Services Department (LCSD), the Office made a number of recommendations on effective utilisation of public resources for procurement of library materials, and proper disposal of worn-out/damaged and outdated library collections. LCSD immediately reviewed and revised the procedure of setting procurement targets and compiling procurement plans. It has also been keen to explore possible collaboration with non-profit-making organisations in disposing withdrawn books through donation and a trial scheme on community book sharing, subject to compliance with Government regulations, cost-effectiveness and availability of resources, so as to better serve the community.

In addition, thanks to the Office's direct investigation into subjects such as the Government's mechanism for handling smoking offences, its control over fly-tipping of construction waste and landfilling activities on private land, as well as its regulation of factory canteens, there has been better communication and collaboration among Government departments, and greater efficiency and proactiveness in taking law enforcement actions. Such improvements have brought tangible benefits to the living environment, safety and health of our citizens.

While stepping up its effort on direct investigation, the Office has not overlooked the complaints lodged by individual complainants. In 2017-18, the Office conducted full investigation into 195 complaints, and close to 70 per cent of the complaints were found to be unsubstantiated after investigation. In its striving for justice for members of the public through professional investigation/inquiry and impartial judgement, the Office was also conscious of the constraints faced by Government departments and public bodies in deploying resources and exercising statutory powers. For instance, the Office respected the practice of the Buildings Department and the Lands Department in handling issues of building safety, illegal structures and illegal occupation of government land, taking into account such factors as threat to public safety when setting the priorities for enforcement actions. Some of the investigation findings also indicated that Government departments and public bodies had already made every effort within their purview to handle the issues and requests raised by members of the public. The Ombudsman praised some Government departments and public bodies in particular for taking follow-up actions and making improvements on relevant issues even before the Office concluded its investigations. This is an apt demonstration of the positive interactions between the Office and Government departments. On the other hand, the Office also made rather strong criticisms against

Government departments and public bodies, and reminded them to utilise their resources and powers in more flexible and targeted manner to enable effective law enforcement and solve problems for members of the public. Such criticisms and recommendations are worth the reflection of departments and public bodies.

As mentioned in the Government Minute last year, the number of requests for information made to Government departments has been on the rise. In 2017-18, departments received a record high of over 6 100 requests for information made by members of the public under the Code on Access to Information (the Code), which was an increase of over 10 per cent as compared to the figure in 2016-17. Even so, more than 94 per cent of the cases were provided with all the information requested and 3 per cent of them were provided with part of the information requested. In 2017-18, the Office also received as many as 91 Code-related complaints, which shows mounting public expectation for an open and accountable Government. In the investigation of 71 Code-related cases concluded in 2017-18, the Office found non-compliance with the Code in 30, mostly relating to nonconformity with specific provisions of the Code and refusal of requests for information without sufficient justification. To enhance understanding about the spirit and principle of the Code among departments, the Government has sought to strengthen staff training. A training video was produced in the third quarter of this year for the reference of staff involved in regular handling of Code requests. The purpose is to improve staff awareness and understanding of the various provisions of the Code including justifiable reasons to refuse disclosure of information. In addition, the Constitutional and Mainland Affairs Bureau will continue to send officers to relevant departments to provide briefing on cases and content of the Code.

At the same time, the Government attaches importance to the Office's recommendations regarding the enactment of access to information and archives laws. The Law Reform Commission (LRC) launched on December 6 this year a public consultation on its studies about reforming the system of access to information and archives law. The Government will pay close attention to the public's views on these two issues, study and follow up the recommendations as appropriate after the LRC has completed its consultation and published its final reports.

President, I would like to express my gratitude to The Ombudsman, Ms Connie LAU, and her professional team for their independent and impartial handling of public complaints as well as their dedication to raising the standard of public administration of Hong Kong over the last four years. The comprehensive and in-depth investigations as well as constructive criticisms and recommendations of the Office, coupled with the positive response of the departments and bodies concerned, have greatly benefitted the community of Hong Kong. The Government will continue to support The Ombudsman's work and looks forward to meeting public expectation more effectively in its administration and better addressing the needs of our society in the delivery of public services.

Thank you, President.

LCQ22: Regulation of the sale of rhinoceros horns and products

Following is a question by Dr Hon Elizabeth Quat and a written reply by the Secretary for the Environment, Mr Wong Kam-sing, in the Legislative Council today (December 12):

Question:

The sale of rhinoceros horns and products (which may be in the form of libation cups, boxes, vessels, hairpins, etc) is regulated in Hong Kong under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586), through which the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is implemented in Hong Kong. It is learnt that under Cap. 586, products of those rhinoceros horns which had been acquired before the CITES provisions started to apply to rhinoceros (pre-Convention rhinoceros horns) are allowed to be commercially traded in Hong Kong only if such products are accompanied by a pre-Convention certificate issued by the export country. In this connection, will the Government inform this Council:

(1) given that antique collectors generally object to the age of their valuable artefacts be ascertained by applying the current dating methods (e.g. radiocarbon-14 dating and DNA-testing) which involve removal of small parts from the artefacts for testing,

(i) how the law enforcement agencies can accurately determine the age of a rhinoceros horn product offered for sale in the market to ascertain that the product in question is indeed from a pre-Convention stock, and (ii) whether testimony of experts (from the antique industry and/or Chinese arts and crafts) of their visual identification has so far been admissible in court hearings concerning suspected illegal trading of rhinoceros horn products; if so, of the number of such cases in which the persons concerned have been convicted; if not, the reasons for that, and how the authorities can effectively enforce the ban on illegal trading of rhinoceros horn products;

(2) as the authorities regularly dispose of seized ivory and pangolin scale specimens by incineration, whether they dispose of seized rhinoceros horn specimens by the same method; if not, of the reasons for that and whether they will do so in future; if they will not, of the reasons for that;

(3) of the quantity of rhinoceros horn specimens seized in Hong Kong in the past five years and up to October this year, and among them, the respective quantities of rhinoceros (i) whole horns and (ii) horn cut pieces seized;

(4) of the total number of holders in Hong Kong of pre-Convention certificates for pre-Convention rhinoceros horn products as at the end of 2017; and

(5) of the total quantity of pre-Convention rhinoceros horn products registered in Hong Kong for commercial purposes as at the end of 2017?

Reply:

President,

Our reply to the question raised by Dr Hon Elizabeth Quat is as follows:

(1) The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) started to regulate the international trade of rhinoceroses and their products on July 1, 1975. Rhinoceros horns acquired before this date, known as pre-Convention rhinoceros horns, are exempted under CITES and their international trade is allowed under a permit system. Under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) (the Ordinance), any pre-Convention rhinoceros horn to be imported to Hong Kong shall be accompanied by a pre-Convention certificate issued by a relevant authority of the previous exporting place certifying that the horn has been acquired pre-Convention, and shall be subject to inspection by authorised officers upon its landing in Hong Kong.

Any person possessing a pre-Convention rhinoceros horn is also required to produce the pre-Convention certificate concerned, certifying that the horn has been acquired pre-Convention. Authorised officers will verify the authenticity and validity of the certificate, as well as whether the particulars therein match the horn. Authorised officers may seize the horn for further investigation if they reasonably suspect that the possession of the horn is in contravention of the Ordinance, and may adopt appropriate scientific methods (e.g. radiocarbon-14 dating and DNA-testing) to determine the legality of the horn if necessary.

As to whether an expert's testimony of his/her visual identification, as part of his/her assessment of a rhinoceros horn craft, is admissible in a court hearing as evidence to prove the suspected real age of the rhinoceros horn, there has been no precedent among the prosecutions instituted under the Ordinance. The Government will assess each case on its own merits and seek legal advice before making the most appropriate arrangement.

(2) CITES provides that a law enforcement authority may keep specimens of endangered species confiscated during enforcement actions for scientific, education, enforcement or identification purposes. It also allows destruction of the specimens if the above-mentioned disposal methods are not practicable. The Agriculture, Fisheries and Conservation Department (AFCD) has all along handled confiscated rhinoceros horns and specimens of other endangered species strictly according to the principles laid down in CITES. In the last ten years, the AFCD has all along donated the stockpiled rhinoceros horns for

scientific, education, enforcement or identification purposes. There is no need to destroy any confiscated rhinoceros horns.

(3) Between 2013 and the first ten months of 2018, the AFCD seized a total of some 202 kilograms of rhinoceros horns, of which 76 pieces were whole horns.

(4) A pre-Convention certificate is issued by relevant authority of the previous exporting place for each shipment and may cover more than one specimen. Importers holding pre-Convention certificates, or buyers holding pre-Convention certificates provided by previous importers and relevant transaction receipts, may possess pre-Convention rhinoceros horns and need not register with the AFCD. As such, the AFCD has no relevant statistics.

(5) For the possession of rhinoceros horns accompanied by pre-Convention certificates certifying that the horns have been acquired pre-Convention, no registration with the AFCD is required no matter the horns are for commercial purposes or not. As such, the AFCD has no relevant statistics.

LCQ9: Climate change

Following is a question by the Hon Martin Liao and a written reply by the Secretary for the Environment, Mr Wong Kam-sing, in the Legislative Council today (December 12):

Question:

The Hong Kong Climate Change Report 2015 published by the Government has pointed out that Hong Kong's annual greenhouse gases (GHG) emissions over the period from 1990 to 2012 ranged from 33.3 million to 43.1 million tonnes of CO₂-equivalent (CO₂-e), and has explained that the slight rise in carbon emissions in 2012 was likely due to an increase in local cement production to meet the demand of infrastructure projects. In this connection, will the Government inform this Council:

(1) of Hong Kong's GHG emissions each year since 2013, with a breakdown by emission source, and the causes for the relevant figures to rise, drop or remain unchanged;

(2) of the current per capita carbon emissions in Hong Kong, together with a roadmap on how the per capita carbon emissions reduction targets set by the authorities can be attained, i.e. being reduced to "less than 4.5 tonnes" in 2020, and further reduced to "about 3.3 to 3.8 tonnes" in 2030; the expected time when the per capita carbon emissions can be reduced to 2 tonnes CO₂-e, and when the target of keeping the global average temperature increase to below 2 degrees Celsius relative to pre-industrial levels can be attained;

(3) whether it will echo the appeal made by the Intergovernmental Panel on

Climate Change (IPCC) in the IPCC Special Report on Global Warming of 1.5°C published this year by stepping up its efforts in leading Hong Kong people in making contributions towards keeping the global average temperature increase to not more than 1.5 degrees Celsius, including formulating more ambitious targets for carbon intensity and emissions reduction; if so, of the details; if not, the reasons for that; and

(4) regarding the report on Study on Emissions Trading in the Mainland: Options for Hong Kong published last year by the former Central Policy Unit, in particular the recommendation in the report that the issue of carbon pricing be raised and formulation of corresponding actions be considered at the meetings of the Steering Committee for Climate Change, whether the authorities have taken follow-up actions; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government attaches great importance to addressing the likely impact that might be brought by climate change, and actions have been taken on various fronts to reduce greenhouse gas (GHG) emissions. To combat climate change, the Government established the Steering Committee on Climate Change (SCCC) in 2016 under the chairmanship of the Chief Secretary for Administration to steer and co-ordinate actions amongst different bureaux and departments, and released Hong Kong's Climate Action Plan 2030+ in January 2017, setting out in detail the targets and key measures on mitigation, adaptation and resilience to combat climate change. On the basis of the level of Hong Kong's carbon intensity in 2005, our target is to reduce our carbon intensity by 50 per cent by 2020, and by between 65 per cent and 70 per cent by 2030 (which is equivalent to an absolute reduction of 26 to 36 per cent), and our per capita emissions will be reduced from 5.7 tonnes in 2016 to 3.3 to 3.8 tonnes by 2030, so as to align with the target of the Paris Agreement to limit the increase in the global average temperature to well below 2 degrees Celsius above preindustrial levels.

My responses to the question raised by Hon Martin Liao are as follows:

(1) The Environmental Protection Department compiles the GHG inventory in accordance with the guidelines published by the United Nations' Intergovernmental Panel on Climate Change (IPCC). The GHG emissions by source from 2013 to 2016 are set out as follows:

Year	Greenhouse gas emissions (in kilotonnes CO ₂ -e)						
	Energy			Waste	Industrial Processes and Product Use	Agriculture, Forestry and Other Land Use	Total+
	Electricity Generation #	Transport	Other End Use of Fuel @				
2013	30 300	7 370	2 320	2 540	1 720	32	44 300

2014	31 200	7 340	2 210	2 530	1 640	31	45 000
2015	27 700	7 530	2 290	2 450	1 720	30	41 700
2016 *	27 900	7 500^	2 300	2 490	1 710	31	41 900

Remarks:

* Provisional figures subject to revision.

Including GHG emissions arising from Towngas production which accounted for about 0.73 per cent of the total GHG emissions in Hong Kong in 2016.

@ Including use of fuel for combustion in commercial, industrial and domestic premises.

+ The sum of individual items may not equal to total owing to rounding.

^ In 2016, carbon emissions arising from railway electricity consumption accounted for 2 per cent or so of the overall carbon emissions in Hong Kong and were counted into the electricity generation sector. If these emissions were counted into the transport sector, the total carbon emissions from transport will make up about 20 per cent of our overall carbon emissions.

From 2013 to 2016, Hong Kong's total GHG emissions reduced by about 5 per cent to 41 900 kilotonnes CO₂-e from 44 300 kilotonnes CO₂-e, mainly attributable to the reduction in electricity generation by power plants and the fact that more natural gas and less coal was burnt for electricity generation, leading to the reduction of the GHG emissions from electricity generation from 30 300 kilotonnes CO₂-e to 27 900 kilotonnes CO₂-e.

(2) and (3) To meet the 2020 and 2030 carbon emission targets, the Government will continue to optimise the fuel mix, promote wider use of renewable energy, improve energy efficiency and conservation, promote low carbon transport, adopt waste to energy, and other suitable measures to reduce GHG emissions. It is anticipated that Hong Kong's carbon emissions will peak before 2020.

Pursuant to the Paris Agreement, all Parties should strive to formulate and communicate long-term low GHG emission development strategies by 2020. As part of China as well as a responsible member of the global community, Hong Kong should develop a long-term decarbonisation strategy up to 2050 by 2020. To this end, the Government has invited the Council for Sustainable Development (SDC) to conduct a public engagement (PE) exercise in early 2019, which will include collecting public views on whether and, if so, at what level a specific carbon reduction target for 2050 should be set (e.g. in line with the 2 degrees Celsius or 1.5 degrees Celsius targets of the Paris Agreement).

The IPCC Special Report on Global Warming of 1.5°C published by the IPCC in October 2018 assessed the impacts of global warming of 1.5 degrees Celsius above the pre-industrial level and related global GHG emissions pathways, providing policymakers with the required scientific evidence to formulate climate action plans for achieving the goal of the Paris Agreement (i.e. holding the increase in the global average temperature to well below 2 degrees Celsius above pre-industrial levels and pursuing efforts to limit the

temperature increase to within 1.5 degrees Celsius).

The Government would strive to conclude by 2020 the latest the development of Hong Kong's long-term decarbonisation strategy up to 2050. Apart from the recommendations to be put forward by the SDC after the PE exercise, the Government will also consider the latest scientific developments such as the IPCC Special Report on Global Warming of 1.5°C in formulating the strategy.

(4) The former Central Policy Unit published the report entitled Study on Emissions Trading in the Mainland: Options for Hong Kong (the Study) on June 12, 2017. The scope of the Study includes whether Hong Kong is well positioned to develop its own carbon emissions trading (carbon trading) market and, if so, what role Hong Kong can play in the national carbon market.

The views of the stakeholders interviewed in the Study were diverse and there was no majority view or clear direction.

The SCCC discussed the proposals put forward in the Study and agreed that Hong Kong is not yet in a position to establish its own carbon trading market at this stage. The relevant bureaux and departments will continue to keep in view the development of the national carbon market and the international carbon emissions trading schemes, consider the feasibility of setting up carbon emissions trading schemes in Hong Kong in due course, and explore the role Hong Kong can play in the national carbon market.

Provision of further facilitation for enrolment for automated clearance service by Hong Kong and Singapore on a mutual basis

The Immigration Department (ImmD) today (December 12) announced provision of further facilitation for enrolment for automated clearance service by Hong Kong and Singapore on a mutual basis so that eligible holders of Hong Kong Special Administrative Region (HKSAR) passports and those of Singapore passports will enjoy greater convenience when they travel between the two places.

Under the existing arrangement, Singapore passport holders aged 11 or above who have visited Hong Kong for no fewer than three times within 12 months prior to enrolment and have no adverse records in Hong Kong can take their Singapore passports with a validity period of at least six months to the e-Channel enrolment offices at the Immigration Headquarters, the Hong

Kong International Airport or the Macau Ferry Terminal to enrol for the e-Channel service in Hong Kong. With effect from December 13 this year, eligible Singapore passport holders who have visited Hong Kong for no fewer than two times within 24 months prior to enrolment can enrol for the e-Channel service in Hong Kong. Other enrolment criteria under the new arrangement will remain unchanged.

Reciprocally, HKSAR passport holders aged 11 or above who have visited Singapore for no fewer than two times within 24 months prior to enrolment and have no adverse records in Singapore can take their HKSAR passports with a validity period of at least six months to the enrolment centres located at Changi Airport, Woodlands Checkpoint, Tuas Checkpoint or the ICA Building in Singapore for automated clearance service enrolment.

Enrolment is on a voluntary basis and free of charge. For details, please visit the website of the ImmD at www.immd.gov.hk and that of the Immigration & Checkpoints Authority of Singapore at www.ica.gov.sg.

Red flag hoisted at Silverstrand Beach

Attention TV/radio announcers:

Please broadcast the following as soon as possible:

Here is an item of interest to swimmers.

The Leisure and Cultural Services Department announced today (December 12) that due to big waves, red flag has been hoisted at Silverstrand Beach in Sai Kung District. Beach-goers are advised not to swim at the beach.