

LCQ4: High wind traffic management at Lantau Link and Ting Kau Bridge

Following is a question by the Hon Alice Mak and a reply by the Acting Secretary for Transport and Housing, Dr Raymond So Wai-man, in the Legislative Council today (May 16):

Question:

To ensure road safety, the Tsing Ma Control Area operator implements high wind management measures (HM measures) at the Lantau Link and the Ting Kau Bridge during strong wind conditions. HM measures include closure of the centre lanes, lowering the speed limit for vehicles, etc. It has been reported that serious traffic congestion occurred from time to time at the Lantau Link and the Ting Kau Bridge, as well as in areas within and surrounding Kwai Ching and Tsuen Wan while HM measures were in force. Furthermore, some drivers opine that the two-way toll collection of the Lantau Link implemented in August last year has made it necessary for vehicles travelling to and from Lantau via the Lantau Link to slow down or stop at the toll plaza to pay the toll, resulting in a traffic bottleneck. In this connection, will the Government inform this Council:

(1) of the respective numbers of times in each of the past five years for which HM measures were implemented in the Tsing Ma Control Area and traffic congestion occurred in the areas concerned while such measures were in force; the measures taken by the Tsing Ma Control Area operator and the Transport Department before and during the implementation of HM measures to divert traffic flow and inform drivers of the situations;

(2) whether the authorities will, before the approach of this year's typhoon season, review the impacts of the implementation of HM measures on traffic, and formulate measures to prevent HM measures from causing serious traffic congestion in extensive areas; if so, of the details; and

(3) whether the authorities will comprehensively review if the two-way toll collection arrangement at the Lantau Link has led to traffic congestion, and consider abolishing the toll collection as well as improving vehicle flow control and road design, in order to reduce the occurrences of traffic congestion at the Lantau Link; whether the authorities will expeditiously plan for the construction of new trunk roads to connect Lantau with urban areas, so as to alleviate the traffic load of the Lantau Link in the long run?

Reply:

President,

To ensure the safety of motorists, when high wind situations occur at the Lantau Link and Ting Kau Bridge in Tsing Ma Control Area (TMCA), high

wind traffic management measures will be implemented in phases commensurate with prescribed wind speeds. Since the implementation of traffic management will lead to fewer available traffic lanes on the bridge deck, lowered speed limits and traffic diversion, traffic flow on related approach roads and major bridges will inevitably be affected.

My reply to the various parts of the Hon Alice Mak's question is as follows:

(1) From January 2013 to April 2018, there were altogether 84 instances of implementing Stage I (with hourly mean wind speed in excess of 40 kilometres per hour (kph)) and 12 instances of implementing Stage II (with the hourly mean wind speed in excess of 65 kph) of high wind traffic management on the Lantau Link and Ting Kau Bridge. Among those instances, the Transport Department (TD) recorded 14 instances of traffic congestion of varying degrees when traffic management was in force. The number of such instances by year is at Annex.

Before and during the implementation of high wind traffic management, the TD and the management company of the TMCA will take traffic management and contingency measures as appropriate in accordance with the established procedures and mechanism to ease traffic flow and notify the public, with a view to minimising the impact as far as practicable while ensuring the safety of motorists. Such measures include:

(i) notify the public as early as possible, at about 45 minutes in advance of the implementation of Stage I of high wind traffic management, through, inter alia, radio and other media, and the websites and mobile applications of the TD, public transport service operators (including bus companies and the MTRCL) and the Airport Authority, to disseminate the message of the high wind traffic management and latest information on traffic and public transport services;

(ii) make use of the message signs on the major roads of TMCA and Tsing Sha Control Area and those on some major roads in other districts, as well as the radio broadcasting system inside various tunnels, to remind motorists of traffic conditions on the Lantau Link and keep the travelling passengers informed so that they can consider switching to railway services; and

(iii) contact public transport service operators, including the MTRCL, so that these operators can adjust their services according to the needs of passengers. The service frequency of the Airport Express Line and Tung Chung Line of MTR will also be increased to cope with the additional passenger demand.

(2) and (3) As observed by the TD through the traffic control and surveillance system, since the implementation of two-way toll collection arrangement on the Lantau Link on August 20, 2017, the traffic to the Airport at the Lantau Link Toll Plaza remained smooth and there was no congestion during the high wind traffic management. Therefore, the traffic congestion at Tsing Yi was not related to the implementation of two-way toll collection arrangement on the Airport bound of Lantau Link.

To minimise the impact of high wind traffic management on the public, the Highways Department (HyD) and the TD have commissioned a study on the high wind traffic management on the Lantau Link to review the existing overall traffic arrangement in the event of high wind and consider traffic improvement measures during high wind. The study is expected to be completed in mid 2018. Separately, the TD is reviewing the current detailed arrangement of traffic diversion (including the temporary traffic arrangement at the diversion points of Lantau Link) in order to improve the traffic flow at the diversion points. When the high wind traffic management are in force in future, the TD will make use of message signs on more major roads (including the message signs at West Kowloon Highway and the new message signs to be added at North Lantau Highway) to display the concerned information, and explore the use of additional channels, such as message signs at major public transport interchanges, to inform the public on matters relating to high wind traffic management.

As for road design and planning of new trunk roads, the HyD is carrying out in full swing the construction works of Tuen Mun – Chek Lap Kok Link (TM CLKL) – Northern Connection, which is expected to be completed in 2020 at the earliest. The completed project will serve as the most direct route connecting the Northwest New Territories (NWNT) and Lantau Island, linking up Tuen Mun, Hong Kong-Zhuhai-Macao Bridge, the Airport, North Lantau and Tung Chung. Part of the traffic capacity of the existing routes (such as the Lantau Link and Ting Kau Bridge, etc) will also be released to further relieve the traffic flow. The TM CLKL – Northern Connection will then become another road corridor connecting the Airport and North Lantau with the urban area, offering an alternative to the Lantau Link and North Lantau Highway.

In addition, to cope with the traffic demand generated by the future NWNT developments and to build the third vehicular access to Lantau Island, upon granting of funding approval of the feasibility study on Route 11 by the Legislative Council Finance Committee on April 13, 2018, the HyD has commenced a feasibility study on Route 11, which also looks into the need of planning for the Tsing Yi – Lantau Link (TYLL) and related road traffic options, with a view to allowing the traffic flow between NWNT and the urban area to make use of the TYLL without having to route through the North Lantau Highway and Lantau Link. The feasibility study is expected to be completed in 2020.

LCQ3: Provision of amenities ancillary to housing

Following is a question by the Hon Regina Ip and a reply by the Acting Secretary for Transport and Housing, Dr Raymond So Wai-man, in the

Legislative Council today (May 16):

Question :

In 2005, the Hong Kong Housing Authority (HA) divested certain retail and car parking facilities of its public rental housing (PRH) estates to The Link Real Estate Investment Trust (The Link). The Link was subsequently renamed as Link Real Estate Investment Trust (Link REIT). Following the relaxation in 2014 of the constraints under the Code on Real Estate Investment Trusts regarding the investment scope of this type of trusts, Link REIT repeatedly divested a number of properties in PRH estates. Some members of the public have pointed out that to achieve profit maximisation, Link REIT has substantially raised the rents of shops after the refurbishment of the shopping centres and markets in PRH estates, refused to renew tenancy agreements with small shop operators so as to introduce large chain stores, as well as divested incessantly its assets. They opine that Link REIT and the new owners have only profits in mind and disregard the livelihood of small shop operators and the daily needs of the PRH residents. In this connection, will the Government inform this Council:

(1) given that according to the provisions in the sale and purchase agreement signed back then between HA and The Link, if, within 10 years from the listing of The Link, HA wished to further divest its retail and car parking facilities, HA had to offer a sale proposal to The Link first, meaning that The Link was entitled to a right of first refusal, of the reasons why HA made such an arrangement back then and the specific contents of the relevant provisions; and

(2) as section 4(1) of the Housing Ordinance provides that HA has the duty to secure, for the residents, the provision of amenities ancillary to housing as HA thinks fit, of the new measures to be put in place to ensure that HA will fully discharge its duty under this provision, and that the usage of the commercial facilities in its housing estates complies with the relevant land lease conditions and meet the needs in the daily lives of PRH residents?

Reply:

President,

My consolidated reply to various parts of the Hon Regina Ip's question is as follows.

In 2005, the Hong Kong Housing Authority (HA) divested 180 properties, including retail and carparking facilities, through The Link Real Estate Investment Trust (The Link) (now known as Link Real Estate Investment Trust (Link)) in order to focus on its core function of providing subsidised public housing and improve its financial position in the short-to-medium term with proceeds from divestment. It was also considered that the efficiency of the relevant commercial facilities would be enhanced under the operation of a private entity in accordance with commercial principles.

One of the documents relating to the listing of The Link was the Deed of

Right of First Refusal (the Deed), under which HA is obliged offer The Link a right of first refusal in the event that it wished to sell certain retail and carparking facilities retained within its housing estates or that HA might develop in the future. Since 2005, HA has not further divested its commercial facilities, and thus the right of first refusal has never been exercised. The right of first refusal was effective for a period of ten years commencing from the listing day, which means that it has already expired in November 2015.

Under the right of first refusal, the price at which HA would offer the properties to The Link is the higher of two independent valuations calculated by specific valuation methods. If The Link does not opt to purchase the properties, HA can complete the sale by offering the properties to any third parties on such terms as it determines within two years, otherwise the right of first refusal will apply again to such properties. When the Government briefed the Legislative Council on matters about the divestment of HA's retail and carparking facilities in January 2006, it had provided detailed information on the right of first refusal .

HA's decision then to grant the right of first refusal had gone thorough in depth deliberation, and taken into account a variety of views during the process. One of the main reasons for making this decision was because, in preparation for the divestment, HA considered that the revenue potential of some of its facilities had yet been fully realised. In an effort to maximise its revenue from the public offering, HA did not incorporate these retail and carparking facilities into its divestment plan. HA considered that some of these properties might be suitable for divestment when their revenue potential was fully realised in future. HA also had plans at that time to divest the retail and carparking facilities of its new estates which would be completed in the coming years, with a view to withdrawing from commercial operation and focusing on its core function as a provider of public housing.

At that time, HA believed that granting the right of first refusal might help attract investors and maximise its revenue from the public offering. Furthermore, in order not to compromise HA's long-term pursuit of more innovative asset management/disposal avenues, a time limit was set for the right of first refusal.

HA's then decision to divest its properties was made after careful deliberation. HA was of the view that such a decision would be conducive to the discharge of its function as a provider of subsidised housing. Given the limited land and public resources, HA has to prioritise and focus its resources on providing public rental housing (PRH) to eligible families, especially to the low-income families who cannot afford private rental accommodation. In responding to the motion debates in the Legislative Council in November 2012 and November 2016, the then Secretary for Transport and Housing clearly stated that the Government and HA had no plan to buy back Link or individual divested properties, as this would be incompatible with public interests and the principle of prudent financial management. This position still remains valid.

Section 4(1) of the Housing Ordinance requires HA to secure the

provision of housing and "such amenities ancillary thereto as the Authority thinks fit" for the persons concerned. As for HA's divestment of its properties in 2005, when handing down its Judgement in 2005 on a relevant judicial review case, the Court of Final Appeal (CFA) affirmed that the divestment plan by HA was consistent with the objective laid down in section 4(1) above. According to CFA, it was not stipulated in the Housing Ordinance that tenants of PRH had any statutory right to the continued retention and control by HA of the facilities while the tenants were still using the facilities; and so long as the facilities were available to tenants, it meant that HA had secured the provision of such facilities, even if they were provided by a third party over whom HA had no control. In reaching its conclusions, CFA noted that a market-oriented commercial approach would be adopted in operating the divested properties, whereas HA's approach at that time might not be in line with private sector practice. CFA was also aware of the fact that there might be changes in the operation of the relevant facilities, such as the tenant trade mix might be different.

In fact, HA would consult the public when designing each new public housing project, and try to include, as far as practicable, various facilities suggested by the public, such as retail, welfare, community, education, transport, etc. For existing estates, HA regularly receives opinions on various facilities from Estate Management Advisory Committees and other members of the public. HA would try to adjust existing facilities or add new facilities as far as practicable. The above practices and procedures are established, regular and transparent.

In respect of lease enforcement, the Lands Department (LandsD), in the capacity of the landlord, handles the leased land under the conditions in the land leases. As with other private properties, LandsD mainly acts on complaints, referrals or enquiries about suspected breaches of the lease conditions of the divested properties by conducting inspections and taking follow-up actions in accordance with the existing procedures. Depending on the circumstances, LandsD will also consult the relevant policy bureaux/government departments and seek legal advice. If breaches of the lease conditions are confirmed, LandsD will take appropriate lease enforcement actions. HA, as one of the owners of housing estates, maintains communication with other owners on matters relating to the daily management of such estates, with a view to protecting its rights under the deeds of mutual covenant (DMCs) and the restrictive covenants. Any suspected breach of land leases identified by HA will be referred to DMC Managers, Owners' Corporation and the relevant District Lands Offices for follow-up.

Apart from the land lease conditions, owners of divested properties must, in the same manner as other private property owners, abide by the relevant statutory requirements and the restrictive covenants contained in the assignment deeds of the properties during the operation of such properties, whereas the government departments concerned would carry out supervision in the light of the actual circumstances. As long as the relevant statutory requirements and land lease conditions are complied with, and the aforementioned covenants with HA are not breached, the Government and HA cannot and will not interfere with the owners' day-to-day operations and

commercial decisions. However, if it is confirmed that the owner concerned is in breach of any laws, land lease conditions or covenants with HA, the relevant government departments and HA will certainly pursue the matter seriously and take appropriate actions.

LCQ14: Use of Exchange Fund for investment purpose

Following is a question by the Hon James To and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (May 16):

Question:

The Hong Kong Monetary Authority (HKMA) established the Infrastructure Financing Facilitation Office (IFFO) in 2016. One of the functions of IFFO is to facilitate infrastructure investments and their financing in countries and regions along the Belt and Road. It was reported in the press in August last year that the Chief Executive of HKMA had said that plans were being made to establish a mechanism through IFFO under which HKMA would take the lead in identifying infrastructure projects in countries and regions along the Belt and Road, and then it would collaborate with other IFFO partners to conduct investment. On the other hand, HKMA signed an agreement in September last year with International Finance Corporation (IFC), a member of the World Bank Group, committing US\$1 billion to the innovative Managed Co-lending Portfolio Programme (MCP) debt mobilisation platform for emerging markets to support IFC in financing projects across more than 100 countries. In this connection, will the Government inform this Council:

(1) of the number of infrastructure investment and financing projects facilitated by IFFO since its establishment, and set out by project name the regions in which the proposed infrastructure facilities are to be located, the investment and financing amounts, and the names of proponents and investors;

(2) whether HKMA has (i) deployed the Exchange Fund, or (ii) collaborated with IFFO partners upon identification of infrastructure projects through IFFO, to invest in projects in countries and regions along the Belt and Road; if so, set out by project name the regions in which the proposed infrastructure facilities are to be located, the forms of investment, the amount of investment and its percentage in the investment portfolio, the amount of profit or loss recorded to date, and the names of investment partners (if any);

(3) of the amount of money paid to MCP by HKMA, the usage of such funds and the amount of profit or loss recorded to date; and

(4) whether HKMA has established any mechanism to monitor the implementation of those infrastructure projects in countries and regions along the Belt and Road in which HKMA has invested; if so, of the details; if not, the reasons for that; of the measures HKMA has in place to ensure that for infrastructure projects in which it intends to invest, the proponents will fulfill their environmental and social obligations in the regions concerned?

Reply:

President,

Our replies to the four parts of the question are as follow:

(1) The HKMA Infrastructure Financing Facilitation Office (IFFO) was established in July 2016 to facilitate infrastructure investments and financing by working with a cluster of key stakeholders. IFFO is not an investor and does not provide deal-matching services. IFFO puts in place a platform for interested partners to collaborate in identifying infrastructure investment and financing opportunities.

(2) to (4) The Hong Kong Monetary Authority (HKMA) actively sources and reviews investment opportunities globally as appropriate, including Belt and Road related investments, while taking into consideration evolving market conditions and available investment opportunities.

Infrastructure is a key asset class of the Long Term Growth Portfolio (LTGP) of the Exchange Fund. The HKMA has put in place the same robust mechanisms and rigorous procedures for pre-investment due diligence and post-investment monitoring for every infrastructure investment, regardless of whether being along the Belt and Road. Prior to making an investment decision, each investment shall be evaluated based on, among other things, its commercial merits, expected investment returns, and its complementarity to the LTGP's overall portfolio construction. Preparatory studies and appropriate measures to diversify risks will also be carefully conducted for all investments.

The pre-investment due diligence on the HKMA's General Partners (GP) and the investment proposal is conducted in a prudent and critical manner. Its scope covers a wide range of topics, including capability and stability of the investment team, and financials and risk factors of the investment proposal, etc. The HKMA will also review the GP's ability to integrate environmental, social and governance (ESG) factors into their investment decision-making process. Priority will be accorded to jurisdictions and projects with proper governance and environment protection framework.

As for ongoing post-investment follow-up work, the HKMA maintains close contact with the GPs and monitors the pace and usage of the capital drawdowns throughout the process of its post-deal monitoring work. Regular reports will be made to the Exchange Fund Advisory Committee and its Investment Sub-Committee.

Noting the potential market sensitivities pertaining to the investment

of the Exchange Fund, the HKMA does not reveal specific details thereof.

LCQ10: Aircraft noise mitigating measures

Following is a question by the Hon Michael Tien and a written reply by the Acting Secretary for Transport and Housing, Dr Raymond So Wai-man, in the Legislative Council today (May 16):

Question:

The Civil Aviation Department currently implements a number of aircraft noise mitigating measures, such as (i) refusing to allow aircraft which do not comply with the prescribed noise standards to land and take off at the Hong Kong International Airport (HKIA), (ii) encouraging airlines to deploy newer and quieter models of aircraft and (iii) adopting a set of "Radius-to-Fix" flight procedure. Such flight procedure allows aircraft which can use satellite-based navigation technology in their flights to adhere closely to the nominal centre line of the flight track when they take off towards the northeast and make south turn to the West Lamma Channel, and thus enables the aircraft to keep a distance away from the areas on the vicinity of the flight paths (e.g. Ma Wan), thereby reducing the impact of aircraft noise on those areas. In this connection, will the Government inform this Council:

(1) of the respective numbers of times, as recorded by the various aircraft noise monitoring terminals in late hours (i.e. between 11pm and 7am of the next day) in each year from 2012 to 2017, for which aircraft noise levels reached (i) 70 to 74 decibels (dB), (ii) 75 to 79 dB and (iii) 80 dB or above;

(2) among the take-off flights in each year from 2012 to 2017, of the respective numbers and percentages of those which adopted the Radius-to-Fix flight procedure; the measures taken by the authorities since 2012 to encourage airlines to adopt such flight procedure;

(3) whether it is feasible for all take-off flights to adopt the Radius-to-Fix flight procedure; if not, of the ceiling percentage, and whether the authorities have estimated the respective numbers of times for which aircraft noise levels reaches (i) 70 to 74 dB, (ii) 75 to 79 dB and (iii) 80 dB or above will be recorded by the various aircraft noise monitoring terminals in late hours when the percentage of flights adopting such flight procedure has reached the ceiling;

(4) of the progress and specific achievements (e.g. the number and percentage of flights for which quieter types of aircraft were deployed by airlines) made by the authorities in each year from 2012 to 2017, in respect of (i)

refusing to allow aircraft which do not comply with the prescribed noise standards to land and take off at HKIA, and (ii) encouraging airlines to deploy newer and quieter models of aircraft; and

(5) of the aircraft noise mitigating measures, apart from the aforesaid three measures, which are currently implemented by the authorities and their effectiveness?

Reply:

President,

The Civil Aviation Department (CAD) is conscious of the impact that aircraft operations have on the local communities and has implemented a number of aircraft noise mitigating measures based on the guidelines of the International Civil Aviation Organization (ICAO) to alleviate the noise impact on areas in the vicinity of flight paths.

Our reply to the various parts of the Hon Michael Tien's question is as follows:

(1) The CAD has 16 noise monitoring terminals (NMT). The aircraft noise events recorded between 11pm and 7am the following day by these terminals from 2012 to 2017 are set out at Annex 1.

(2) and (3) The CAD has implemented the Radius-to-Fix (RF) turn flight procedures since 2012 to allow aircraft equipped with satellite-based navigation technology to adhere closely to the nominal centre line of the flight track when departing to the northeast of the Hong Kong International Airport (HKIA) and making south turn to the West Lamma Channel. This keeps the aircraft at a distance away from areas located in the vicinity of the flight paths (particularly Ma Wan), and reduces the impact of aircraft noise on these areas.

The CAD has not set any "ceiling" for the utilisation of the RF turn flight procedures. Whether an aircraft can adopt the flight procedures is mainly dependent on the equipage of the required navigational equipment on board, the relevant training for the flight crew members, and the respective operational approval issued by the aviation authority of the place of registry of the aircraft concerned.

Amongst all aircraft departing towards the northeast direction from the HKIA, the proportion of aircraft adopting the RF turn flight procedures between 11pm and 7am the following day from 2012 to 2017 are set out at Annex 2. The figures show that the utilisation rate was steadily increasing since the implementation of these flight procedures in 2012.

The CAD has also been closely following up on the overall adoption of these procedures. Between 2012 and 2018, the CAD has conducted four surveys to gather relevant information from airlines on the utilisation of the RF turn flight procedures. The latest information shows most of the new aircraft types are already equipped with the required navigational equipment. As a result of the fleet modernisation by the airlines, more

suitably equipped aircraft will enter into service. The CAD will continue to encourage airlines to adopt these flight procedures and closely monitor the effectiveness.

(4) Aimed to reduce aircraft noise at source, only aircraft that comply with the noise standards stipulated in Chapter 3 of Part II, Volume I of Annex 16 to the Convention on International Civil Aviation (Chapter 3 noise standards) and the relevant standards of noise prescribed in the Civil Aviation (Aircraft Noise) Ordinance (Cap. 312) are permitted to operate in the HKIA since 2002. Such restriction is in line with practices in other major international airports. According to the CAD's record, there were no non-compliant aircraft operated in the HKIA between 2012 and 2017. There was also no record of refusal of application for the use of aircraft which did not comply with the relevant noise standards at HKIA.

In addition, with effect from 2014, the CAD no longer allows aircraft which are marginally compliant with the Chapter 3 noise standards to land and take off in Hong Kong. To further strengthen this measure, the CAD is also planning to impose more stringent requirements with additional operating restrictions on aircraft which do not comply with the noise standards in Chapter 4 of Part II, Volume I of Annex 16 to the Convention on International Civil Aviation (Chapter 4 noise standards (see Note 1 below)), or equivalent, to operate at the HKIA from 10pm to 7am on the following day starting from the summer of 2019. Airlines have been consulted on the plan, and they showed understanding and support. This measure, when implemented, will further alleviate the aircraft noise impact on the local communities.

Apart from the above measures, as newer-model aircraft are benefited from the advancement of aviation technology, aircraft engines are quieter than before and the improved design of airframe has also helped reduce noise significantly. The CAD has been encouraging airlines to use newer-model and quieter aircraft. Many airlines are progressively modernising their fleet. Based on our statistics, the percentage on the use of newer passenger and cargo aircraft (see Note 2 below) operating at HKIA during night period has increased from 66 per cent in 2012 to 85 per cent in 2017. As the number of newer-model and quieter aircraft in their respective fleet continues to increase, the aircraft noise impact will be further alleviated in the long run.

(5) The other noise mitigating measures introduced by the CAD in addition to the above three are:

(i) between midnight and 7am, subject to acceptable operational and safety considerations, arriving aircraft are required to land from the southwest. This measure aims at reducing the number of aircraft overflying populated areas such as Sha Tin, Tsuen Wan, Sham Tseng and Tsing Lung Tau;

(ii) between 11pm and 7am, subject to acceptable operational and safety consideration, aircraft departing to the northeast of the HKIA are required to use the southbound route via the West Lamma Channel. This measure aims at reducing the number of aircraft overflying populated areas such as the Kowloon Peninsula and Hong Kong Island;

(iii) all aircraft approaching the HKIA from the northeast between 11pm and 7am are required to adopt the Continuous Descent Approach (CDA), subject to operational considerations. As aircraft on CDA fly higher and normally on a lower power/low drag configuration, noise experienced in areas such as Sai Kung and Ma On Shan will be lowered; and

(iv) aircraft departing to the northeast of the HKIA are required to adopt the ICAO noise abatement take-off procedures so as to reduce the noise impact on areas located in the vicinity of the HKIA. Aircraft adopting these procedures are required to reduce their power upon reaching an altitude of 800 feet or above to abate aircraft noise.

The CAD's regular reviews of the noise mitigation measures showed that the above measures are effective in alleviating the aircraft noise impact on the local communities. Taking the noise data of the CAD recorded at Ma Wan NMT as an example, the number of noise events of high decibel level (80 decibels or above) during the night period in 2017 have significantly reduced by 80 per cent compared with 2012, and those of 70 decibels or above during the night period have also reduced by 33 per cent during the same period.

Note 1: Part II, Volume I of Annex 16 to the Convention on International Civil Aviation sets out the aircraft noise standards formulated by the ICAO at different times. The aircraft noise standards of Chapter 4, which are applicable to aircraft for which the application for a Type Certificate was submitted between 2006 and 2017, were more stringent than those of Chapter 3. Generally speaking, the noise levels of Chapter 4-compliant or equivalent aircraft were lower than those of Chapter 3-compliant aircraft.

Note 2: Newer passenger and cargo aircraft cover aircraft types such as Airbus A320, A330, A340, A350 and A380 and Boeing B777, B747-8 and B787, etc.

LCQ13: A listed company allegedly releasing misleading information

Following is a question by the Hon Chan Chi-chuen and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (May 16):

Question:

In March 2017, ZTE Corporation (ZTE), a listed company in Hong Kong, entered into a plea agreement with the authorities in the United States (US) in respect of ZTE's violation of the US export control laws. Under the agreement, not only was ZTE required to pay a substantial amount of penalty, but the US authorities would also impose a denial order for seven years that would restrict and prohibit, among other things, ZTE from applying for or

using any licenses, or buying or selling any item exported from US that was subject to US export control regulations. However, the aforesaid denial order was suspended subject to ZTE's compliance with the requirements under the agreement, and would be waived after a seven-year suspension period. On April 15 (US time) this year, the US authorities announced the activation of the denial order with immediate effect until March 13, 2025 as ZTE had failed to fully comply with the agreement. The Chairman of ZTE later admitted that the sanction had a great impact on the company and would plunge the company into a state of shock immediately. On the other hand, ZTE stated in the Notes to Financial Statements in its Annual Report 2017 that, for a comprehensive execution of the agreement, the company would take a series of measures to ensure its compliance with the obligations under the agreement, and thus ZTE believed that it was unlikely that the company would violate the agreement. Some investors opined that ZTE's statement in that annual report had misled them, and hoped that the Securities and Futures Commission (SFC) would immediately conduct a proactive investigation into the matter. In this connection, will the Government inform this Council if it knows:

(1) whether SFC has received, since April this year, any complaint about ZTE having allegedly misled its investors; if so, of the number of such complaints;

(2) whether SFC will take the initiative to investigate whether ZTE has made false or misleading statements; if not, of the reasons for that; and

(3) whether, in the light of this case, SFC will examine the introduction of a mechanism for class actions so that minor shareholders who have been misled and thus suffered losses may claim compensations from the companies and persons concerned through such mechanism; if so, of the details; if not, the reasons for that?

Reply:

President,

Our reply to the three parts of the question is as follows:

(1) and (2) The Securities and Futures Commission (SFC) follows its established procedures in handling complaints involving matters under its statutory powers and responsibilities and in carefully assessing the allegations made therein. The SFC will take appropriate actions if irregularities, including those in respect of non-disclosure of inside information by listed companies, are detected. The SFC will not comment on any specific case.

(3) The Law Reform Commission (LRC) published a report in 2012, recommending an incremental approach to implementing a class action regime in Hong Kong. The class action regime proposed by the LRC is to start with consumer cases, covering tortious and contractual claims made by consumers in relation to goods, services and immovable property. The Department of Justice has established a cross-sector working group to study and consider the proposals of the LRC's report on class action. The working group will take into

consideration views from different sectors and strike a balance for the overall benefits of our society. It will make recommendations to the Government upon completion of the study. Our understanding is that according to the LRC's recommendation regarding the introduction of a class action regime, disputes among company shareholders or issues of shareholders' rights would not be covered at the initial stage.

At present, the Government has no plan to introduce a class action regime for disputes among company shareholders or issues of shareholders' rights. However, under the existing rules, the Court already has unfettered discretion to handle proceedings involving the same interest of numerous persons through "representative proceedings" should the plaintiffs satisfy the threefold test of establishing "a common interest, a common grievance and a remedy which is beneficial to all the plaintiffs".