

Inspection of aquatic products imported from Japan

In response to the Japanese Government's plan to discharge nuclear-contaminated water at the Fukushima Nuclear Power Station, the Director of Food and Environmental Hygiene issued a Food Safety Order which prohibits all aquatic products, sea salt and seaweeds originating from the 10 metropolis/prefectures, namely Tokyo, Fukushima, Ibaraki, Miyagi, Chiba, Gunma, Tochigi, Niigata, Nagano and Saitama, from being imported into and supplied in Hong Kong.

For other Japanese aquatic products, sea salt and seaweeds that are not prohibited from being imported into Hong Kong, the Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department will conduct comprehensive radiological tests to verify that the radiation levels of these products do not exceed the guideline levels before they are allowed to be supplied in the market.

As the discharge of nuclear-contaminated water is unprecedented and will continue for 30 years or more, the Government will closely monitor and step up the testing arrangements. Should anomalies be detected, the Government does not preclude further tightening the scope of the import ban.

From noon on January 23 to noon today (January 24), the CFS conducted tests on the radiological levels of 141 food samples imported from Japan, which were of the "aquatic and related products, seaweeds and sea salt" category. No sample was found to have exceeded the safety limit. Details can be found on the CFS's thematic website titled "Control Measures on Foods Imported from Japan" (www.cfs.gov.hk/english/programme/programme_rafs/programme_rafs_fc_01_30_Nuclear_Event_and_Food_Safety.html).

In parallel, the Agriculture, Fisheries and Conservation Department (AFCD) has also tested 50 samples of local catch for radiological levels. All the samples passed the tests. Details can be found on the AFCD's website (www.afcd.gov.hk/english/fisheries/Radiological_testing/Radiological_Test.html).

The Hong Kong Observatory (HKO) has also enhanced the environmental monitoring of the local waters. No anomaly has been detected so far. For details, please refer to the HKO's website (www.hko.gov.hk/en/radiation/monitoring/seawater.html).

From August 24 to noon today, the CFS and the AFCD have conducted tests on the radiological levels of 26 846 samples of food imported from Japan (including 17 908 samples of aquatic and related products, seaweeds and sea salt) and 7 618 samples of local catch respectively. All the samples passed the tests.

[Hong Kong Customs combats counterfeit electronic goods activities involving cross-boundary transshipments \(with photos\)](#)

Hong Kong Customs conducted a two-week enforcement operation from January 8 to 19 to combat counterfeit electronic goods activities involving cross-boundary transshipments. During the operation, Customs detected 19 related cases and seized more than 14 800 items of suspected counterfeit electronic goods, including earphones, mobile phones, computer tablets and electronic watches, with an estimated market value of over \$10 million. Three men were arrested.

Through risk management and intelligence analysis, Customs detected 15 related cases at various express couriers and local logistics companies. More than 9 900 items of suspected counterfeit electronic goods with a total estimated market value of over \$4.7 million were seized.

Moreover, through risk assessment, Customs detected a total of four related cases at the Tuen Mun River Trade Terminal and the Shenzhen Bay Control Point. Customs officers intercepted one container and three incoming trucks on January 9, 15 and 16, and seized about 4 900 items of suspected counterfeit electronic goods with an estimated market value of over \$5.9 million in total. Three male truck drivers, aged 43, 60 and 63, were arrested.

Investigations of the above-mentioned cases are ongoing. The three arrested men have been released on bail pending further investigation.

Customs reminds practitioners in the logistics industry to comply with the requirements of the Trade Descriptions Ordinance (TDO) and to check with the trademark owners or authorised agents if the authenticity of a product is in doubt.

Customs will continue to step up inspection and enforcement to vigorously combat different types of counterfeit goods activities.

Under the TDO, any person who imports or exports or sells or possesses for sale any goods to which a forged trademark is applied commits an offence. The maximum penalty upon conviction is a fine of \$500,000 and imprisonment for five years.

Members of the public may report any suspected counterfeiting activities to Customs' 24-hour hotline 2545 6182 or its dedicated crime-reporting email account (crimereport@customs.gov.hk) or online form (eform.cefs.gov.hk/form/ced002).



[LCQ8: Selling Hong Kong-registered proprietary Chinese medicines in Guangdong-Hong Kong-Macao Greater Bay Area](#)

Following is a question by Professor the Hon Chan Wing-kwong and a written reply by the Secretary for Health, Professor Lo Chung-mau, in the Legislative Council today (January 24):

Question:

In August 2021, the Guangdong Provincial Medical Products Administration (GDMPA) promulgated the Notice regarding the streamlining of registration

approval for traditional proprietary Chinese medicines (pCms) for external use that have been sold in Hong Kong and Macao (the Notice). Holders of traditional pCms for external use that have been registered with the Chinese Medicine Council of Hong Kong and in use in the city for more than five years may apply for registration with GDMPA through the streamlined procedures. Such pCms, upon successful approval, may be sold in the Guangdong-Hong Kong-Macao Greater Bay Area. In this connection, will the Government inform this Council:

(1) whether it knows, since the promulgation of the Notice, the total number of registration holders of traditional pCms for external use in Hong Kong who have applied for registration with GDMPA through the relevant measures, and the number of types of pCms involved;

(2) whether it knows, among the applications mentioned in (1), the respective numbers of those approved and rejected, as well as the main reasons for rejecting the applications;

(3) whether it knows the average time taken for vetting and approving each application after the application procedures have been streamlined under the relevant measures;

(4) how the authorities promote the relevant measures among the pCm sector, and whether they have taken measures to assist the sector in lodging applications; if so, of the details; and

(5) as GDMPA indicated in November 2023 that it had submitted the Implementation plan for streamlining registration approval for traditional oral pCms that have been sold in Hong Kong and Macao for the National Medical Products Administration's examination and approval, whether the Government knows the details of the relevant plan?

Reply:

President,

Having consulted the Department of Health (DH) and the Guangdong Provincial Medical Products Administration (GDMPA), the Health Bureau provide a consolidated reply to the various parts of Professor the Hon Chan Wing-kwong's question as follows:

(1) to (3) According to the information provided by the GDMPA, since the promulgation of the Notice regarding the streamlining of approval procedures for Hong Kong and Macao registered traditional proprietary Chinese medicines for external use (the Notice) on August 27, 2021, a total of 15 local proprietary Chinese medicines (pCm) registration holders have applied through the streamlined procedures to the GDMPA for registration and sale of 22 Hong Kong registered pCms in the Mainland. Among all applications, nine products have been approved for registration and sale in the Mainland, five products are undergoing technical reviews, and holders of eight products are submitting supplementary information and planning to make declaration subsequent to the pre-vetting service. So far, no applications accepted have

been rejected for approval.

Furthermore, as indicated by the GDMPA, the total time limit for vetting and approving applications submitted through the streamlined procedures for registration and sale in the Mainland has reduced from 235 days to 115 days.

(4) To help the Chinese medicine (CM) sector stay timely informed of the relevant policy and registration requirements, the Chinese Medicine Regulatory Office of the DH has created on its website a dedicated Greater Bay Area (GBA) webpage to provide updates on the development of CM in the GBA. For enabling trade members to keep abreast of the latest regulatory situation in the Mainland, the DH also maintains regular exchange with the industry on the CM development in the GBA through monthly talks.

In parallel, the Government of Hong Kong Special Administrative Region (HKSAR Government) supports the overall development of the CM sector through the Chinese Medicine Development Fund (CMDf). A number of funding schemes have been put in place to assist local licensed pCm manufacturers or wholesalers in upgrading their production management, equipment and product quality. Funding is also provided for applicants of pCm registration to conduct necessary testing on their pCm products and obtain professional support. The Health Bureau, in conjunction with the Advisory Committee on CMDf, has all along been closely monitoring the latest development of CM, as well as maintaining close contact with the implementation agent of CMDf and relevant CM stakeholders to timely introduce enhancement measures. Among these measures, in order to further support the sector to leverage the opportunities brought by the Notice, the CMDf will launch a new scheme to fund local pCm registration holders to apply for registration of their products with the GDMPA for sale in the Mainland through the aforesaid streamlined procedures, so as to encourage more local CM traders to make good use of the relevant policy to explore the Mainland market and promote the development of the CM sector. With preparatory work underway, the funding scheme concerned is expected to be officially launched in the first quarter of 2024.

(5) The GDMPA has submitted the Implementation Plan for streamlining of approval procedures for Hong Kong and Macao registered oral traditional proprietary Chinese medicines for the National Medical Products Administration's examination and approval, in response to the aspirations of the two places for a policy on streamlined registration approval for traditional oral pCms. The HKSAR Government has maintained close liaison with the GDMPA for optimising the relevant policy. The relevant decision, once received via notification, will be announced to the sector in due course.

LCQ18: Development and application of artificial intelligence

Following is a question by the Hon Elizabeth Quat and a written reply by the Secretary for Innovation, Technology and Industry, Professor Sun Dong, in the Legislative Council today (January 24):

Question:

Regarding the development and application of artificial intelligence (AI), will the Government inform this Council:

(1) given that the Government advocates the development of a smart city and a smart government, whether the Government will further promote the introduction of AI into and its application in public services by government departments; if so, of the details; if not, the reasons for that;

(2) as the 2023 Policy Address has proposed to further strengthen the promotion of STEAM (Science, Technology, Engineering, the Arts and Mathematics) education in primary and secondary schools, of the measures the Government has put in place to further strengthen the research and education work on AI and enhance teachers' and students' knowledge and application of AI, e.g. introducing into primary and secondary schools courses on teaching the use of ChatGPT or other AI tools or introducing AI to assist in day-to-day teaching and learning, so as to help analyse students' performance and provide targeted support, thereby enhancing the effectiveness of teaching and learning, etc;

(3) as there are views pointing out that the pictures or contents generated by AI can pass off as genuine, or may cause hidden information security hazards such as information leakage and fabricated contents, and in reply to a question raised by a Member of this Council on May 31 last year, the Government indicated that it would closely monitor the technological advancement, application and development of AI in Hong Kong with a view to making appropriate responses, of the progress of the relevant work;

(4) as the Government has stated in the Policy Statement on Facilitating Data Flow and Safeguarding Data Security in Hong Kong (Policy Statement) that it will study amending the Personal Data (Privacy) Ordinance (Cap. 486) to strengthen personal data protection and address the challenges posed by cyber technologies, how the Government strikes a balance between protecting personal data and facilitating the healthy development of generative AI technologies;

(5) as there are views that the data sources of generative AI technologies come from their training datasets with contents almost covering all human digitised information that can be collected, which may give rise to intellectual property issues, and the Government has stated in the Policy Statement that it will explore enhancing the protection afforded by the

Copyright Ordinance (Cap. 528) to the development of AI technologies, of the progress of the relevant work; and

(6) as the United States has expanded its restrictions on the export of high-end chips to China and Hong Kong can no longer be supplied with high-end computing chips, of the measures the Government has put in place to expedite the promotion of the development of the local technology ecology and local talents, so as to ensure the risk-resistant capacity and long-term competitiveness of Hong Kong's innovation and technology as well as research and development in the Mainland and global markets in the next few years?

Reply:

President,

In response to Hon Elizabeth Quat's question, in consultation with the Education Bureau (EDB), the Security Bureau, the Constitutional and Mainland Affairs Bureau and the Commerce and Economic Development Bureau, my reply is as follows:

(1) The Government has been actively applying artificial intelligence (AI) technology to promote the development of smart city and digital government. The Office of the Government Chief Information Officer (OGCIO) has formulated the Ethical AI Framework to provide government bureaux and departments (B/Ds) with guidelines on implementing projects that involve the use of AI technology. In view of the latest development of generative AI, the OGCIO has updated the Ethical AI Framework in August 2023 to provide clearer guidelines to B/Ds on developing applications with AI-related technologies. The OGCIO also launched the big data analytics platform in 2020 to promote B/Ds' use of technologies such as AI and big data analytics more efficiently and cost-effectively for the implementation of more e-government service projects for the convenience and benefit of the public and the business sector.

So far, a number of e-government services projects have applied AI technologies. For example, the OGCIO and the Transport Department jointly developed the "Traffic Data Analytics System" to apply big data analytics to various traffic, transport and weather data. The Lands Department and the Highways Department also used image analytics technology assisted by AI in 2021 to mask human faces and car plates in street view images used internally for privacy protection.

To further expedite the development of smart city and digital government, the OGCIO carried out the e-government audit from 2022 to review the information systems and services of B/Ds and recommend information technology (IT) initiatives leveraging advanced technologies (e.g. AI, blockchain, big data analytics, geospatial analytics) to enhance public services. The audit was completed in end-2023. B/Ds will progressively launch from this year onwards over a hundred of digital government and smart city initiatives including various initiatives involving AI, such as enhancing security in public cargo working areas by employing AI technology and enhancing the 1823 enquiry service through AI chatbot.

(2) To dovetail with the statement in the Chief Executive (CE)'s 2023 Policy Address to step up the promotion of STEAM education in primary and secondary schools, enhance students' interest and abilities in science and innovation and technology (I&T), as well as foster their creative thinking and problem solving skills, the EDB will continue to update school curricula, strengthen teacher training, and provide schools with resource support to promote I&T learning for all.

In respect of curriculum, the EDB has launched the "Module on AI for Junior Secondary Level" in mid-2023. The content of the curriculum covers topics on AI basics, AI ethics, computer vision, computer speech and language, AI and future of work, etc, which also includes the latest development of AI and generative AI ChatGPT. The EDB also launched the "Enriched Module on Coding Education for Upper Primary Level" to assist primary schools in planning and optimising the promotion of coding education so as to enhance students' computational thinking skills in a more systematic way. This will help primary school students further study the basics and applications of AI later in secondary schools. The above modules are launched for adoption by primary and secondary schools starting from this school year. Besides, the updated senior secondary Information and Communication Technology Curriculum, incorporating I&T topics (e.g. AI), has been implemented at Secondary Four since the 2022/23 school year with increased lesson time for the teaching of coding. The updated curricula above can help students understand the latest development and application of technology and IT, enabling them to make good use of I&T and IT to solve problems.

The EDB continues to organise professional development programmes (including workshops) for teachers, and will provide sufficient training places for schools to enable teachers to further master relevant teaching strategies, including strategies for assessing student learning. Besides, the EDB provides professional development programmes related to AI covering diversified topics, including the development of AI, strategic planning of applying AI in education, and application of AI tools in different subjects. The IT in Education Centre of Excellence Scheme of the EDB also provides training and on-site support services to schools, as well as shares with schools relevant good practices and successful experiences.

Besides, the Quality Education Fund of the EDB allocated \$500 million for implementing e-Learning Ancillary Facilities Programme to facilitate in-depth and cross-sectoral collaboration among the school sector, tertiary institutions, educational bodies, and business sector to jointly develop and provide quality education e-learning ancillary facilities. A total of 22 projects are funded under the Programme, which have commenced at the beginning of the 2023/24 school year. These projects will deploy innovative technologies, including big data and AI, to enhance learning and teaching effectiveness in a wide array of subjects, as well as develop adaptive learning platforms with the use of data analysis to provide instant feedback to cater learner diversity and nurture students' self-directed learning capability. It is expected that by the end of the 2024/25 school year, the deliverables of some projects will be released for use by local schools.

AI technology may give rise to issues of concerns related to laws and

regulations, ethics, authenticity of information, privacy protection, intellectual property (IP) rights, addiction, excessive dependence, etc. In the light of the above, while strengthening IT and I&T education, we also attach great importance to establishing students' positive values and attitudes, and focus on cultivating students' media and information literacy in the digital technology era. Therefore, we provide schools with the "Information Literacy for Hong Kong Students" learning framework, and continue to strengthen the learning elements related to information literacy in primary and secondary school curricula, including the adding of ethical issues arising from the application of I&T in the updated learning framework announced in 2022, so as to teach students to refrain from unethical use of emerging and IT technologies. At the same time, we organise a series of teacher training courses and develop teaching materials to nurture students to become ethical users of IT.

Beyond the school curriculum, the OGCIO implements the "IT Innovation Lab in Secondary Schools" and "Knowing More About IT" programmes to provide funding support for secondary and primary schools respectively to organise extra-curricular activities related to IT, including AI-related courses, workshops and competitions, etc. As at mid-January 2024, the two programmes have supported about 4 400 activities organised by around 940 schools, with around 20 per cent of the activities involving AI.

(3) Internet is not an unreal world that is beyond the law. Under the existing legislation in Hong Kong, most of the laws enacted to prevent crimes in the real world are in principle applicable to the online world. There are various provisions in place under the existing legal framework to deal with the dissemination of untrue or inappropriate information. For instance, the Crimes (Amendment) Ordinance 2021 introduced the offences of publication or threatened publication of intimate images without consent. The offence is also applicable to intimate images that have been altered (including that altered by AI technology).

The development of AI (including generative AI technology) is evolving. The related technological development and application have brought changes to scientific research, teaching and various industries. Hence, the Government has commissioned the InnoHK research centre specialised in generative AI to study and suggest appropriate rules and guidelines on the accuracy, responsibility and information security in the technology and application of generative AI technologies. We will study the appropriate strategy and measures with reference to suggestions by industry experts, with a view to balancing the need to develop AI technology and safeguarding security, etc.

(4) The Personal Data (Privacy) Ordinance (PDPO) (Cap. 486) is a piece of legislation that is technology-neutral and principle-based. The provisions and principles on personal data protection therein apply equitably to any technical means of collecting, using, storing, retaining and transferring personal data. PDPO's regulation covers six personal data protection principles (i.e. purpose and means of personal data collection; accuracy, storage and retention of data; use of data; data security; transparency of data policies; and data access and correction), so as to ensure that the entire process of the handling of personal data is subject to legal

safeguards. These principles are in line with internationally-adopted standards. When organisations develop and use AI process personal data, they would have to comply with the relevant requirements and six Data Protection Principles under the PDPO.

The Office of the Privacy Commissioner for Personal Data (PCPD) published in 2021 the "Guidance on the Ethical Development and Use of Artificial Intelligence" (the AI Guidance), so as to help organisations understand and comply with the relevant requirements to protect personal data privacy under the PDPO when they develop and use AI. The AI Guidance incorporates recommended data stewardship values and ethical principles for AI, and provides practical guidance on AI strategy governance to help organisations devise appropriate AI strategy and management models, conduct risk assessments and devise relevant oversight arrangements, etc. The values and principles contained in the AI Guidance already reflect internationally recognised norms. Furthermore, the PCPD also proactively conducts compliance checks on the use of AI by organisations, and plans to publish the results of the compliance checks in the first quarter of this year.

The Government and the PCPD appreciate that the PDPO needs to keep pace with the times, so that it could provide appropriate protection for personal data privacy while at the same time contributing to Hong Kong's societal, economic and technology developments including AI. In fact, there is no inherent conflict between the development of AI and the protection of personal data privacy under the PDPO. The Government and the PCPD will actively make reference to the experience of other jurisdictions in promoting AI innovation with regard to the handling of personal data, including the studying of the relevant legal provisions, and the PCPD will review and update the AI Guidance as appropriate.

(5) The act of using others' IP for the development, training and enhancement of a generative AI system is regulated by the Copyright Ordinance (Cap. 528) and other relevant local IP laws (including the Patents Ordinance (Cap. 514), the Registered Designs Ordinance (Cap. 522) and the Trade Marks Ordinance (Cap. 559), if applicable). In this regard, if there is use of a work protected by copyright, the legal principles of the Copyright Ordinance currently in force is applicable to the relevant case. More specifically, the Copyright Ordinance expressly provides that a copyright owner has the exclusive right to do "acts restricted by copyright" in relation to his/her work, which includes copying his/her copyright work, communicating his/her copyright work to the public through any electronic means, and making an adaptation of his/her copyright work. Unless the relevant "act restricted by copyright" falls within the scope of exceptions specified in the Copyright Ordinance, any person who, without the consent of the copyright owner, does or authorises another to do the "act restricted by copyright" would infringe copyright, and may attract civil and/or criminal liabilities.

In view of the copyright issues arising from the rapid development of AI technology, the Government is studying the relevant issues and will conduct a consultation this year to explore further enhancement of the relevant protections provided by the Copyright Ordinance so as to ensure that Hong Kong's copyright regime remains robust and competitive.

(6) On the promotion of AI technology ecosystem, the CE announced in last year's Policy Address to expedite the establishment of AI Supercomputing Centre (AISC) to facilitate AI development. Cyberport is now actively making preparation for the establishment of AISC in phases from this year onwards, so as to support the strong demand for computing power among universities, research institutions, government departments and related sectors, enhance Hong Kong's research and development (R&D) capabilities in various technological research and application fields and to promote industrial development.

Furthermore, we have established an AIR@InnoHK research cluster focusing on AI and robotics technologies under the InnoHK initiative, which includes a research and development (R&D) centre specialising in generative AI technology. We will also establish the Hong Kong Microelectronics Research and Development Institute within this year to lead and facilitate collaboration among universities, R&D centres and the industry, which would include exploring the third-generation semiconductor core technology, promoting the "1 to N" transformation of scientific research outcomes, assisting the industry in enhancing efficiency as well as achieving upgrading and transformation, and enhancing Hong Kong's I&T ecosystem.

Separately, the Government has all along been enlarging our local I&T talent pool through a series of initiatives. For example, through the Research Talent Hub scheme, we provide funding support for eligible organisations and companies to engage university graduates to conduct R&D work. Besides, the Technology Talent Admission Scheme provides a fast-track arrangement for admitting overseas and Mainland technology talents to undertake R&D works in Hong Kong. We anticipate that the AISC could attract overseas and Mainland talents and companies to Hong Kong, which will help enhance Hong Kong's research standards and boost digital economy development, and facilitate international and regional AI-related collaboration.

LCQ3: Torture claims

Following is a question by the Hon Lai Tung-kwok and a reply by the Secretary for Security, Mr Tang Ping-keung, in the Legislative Council today (January 24):

Question:

It has been reported that Hong Kong has long been bothered by the problems of torture claims. As at the end of October last year, about 14 700 claimants were still stranded in Hong Kong. There are views that the Government must adopt decisive measures to eradicate incentives for torture claimants to stay in Hong Kong and take up unlawful employment. In addition, in June last year, the court pointed out in a judgment handed down on a case

involving a claimant that those unsubstantiated torture claimants who are detained pending removal from Hong Kong can make the length of detention unreasonably long by refusing to provide co-operation in obtaining the travel document and then applying for a writ of habeas corpus to challenge the legality of their detention. The court further pointed out that to break this impasse, one possible way to consider would be to criminalise such acts of non-co-operation. In this connection, will the Government inform this Council:

(1) whether it accepts the aforesaid suggestion by the court and the time for its implementation; if it does not accept the suggestion or there is no timetable yet, of the reasons for that;

(2) of the number of times in the past three years that the authorities exercised the power under section 37ZK of the Immigration Ordinance to detain torture claimants pending final determination of their claims; and

(3) whether it will consider revising the policy so as to fully exercise the power under section 37ZK of the Immigration Ordinance to detain persons who have lodged torture claims, thereby eliminating the situation of unlawful employment taken up by them?

Reply:

President,

The Government attaches great importance to the issue relating to non-refoulement claims and has all along adopted a multi-pronged strategy. The Security Bureau (SB) amended the legislation in 2023 to include the Nei Kwu Correctional Institution as a place of detention of the Immigration Department (ImmD), thereby increasing the total number of detention capacity by 33 per cent to 900. The ImmD is committed to making gainful use of the existing facilities to detain claimants who pose higher security risks to the community in accordance with the law. On the other hand, since the introduction of the updated removal policy with effect from December 7, 2022, the ImmD will generally proceed with the removal of unsubstantiated claimants from Hong Kong upon dismissal of their judicial review or relevant leave applications pertaining to their non-refoulement claims by the Court of First Instance (CFI), irrespective of whether there are outstanding court proceedings. Since the implementation of the updated policy until end-2023, the ImmD has removed a total of 1 851 claimants from Hong Kong, including 215 under the updated policy. The number in 2023 has significantly increased by 63 per cent compared to 2022.

In response to the respective parts of the question raised by the Hon Lai, my reply is as follows:

(1) The Government amended the Immigration Ordinance (the Ordinance) in 2021 to include provisions addressing claimants' delaying tactics, which is applicable to assess the reasonableness and lawfulness of the detention period, such as whether the claimants have been co-operative in obtaining

travel documents for returning to their countries of origin, and whether they have caused any hindrance to the removal process.

The judgment referred to in the question suggests making reference to a piece of legislation in the United Kingdom which specifies that it is a criminal offence for a non-refoulement claimant to be unco-operative in obtaining a travel document causing delays to his/her removal. The period of imprisonment is not subject to the principles of administrative detention. We have studied the judgment concerned and considered that even similar legislations were made, those unco-operative claimants can still insist to be unco-operative after serving their prison terms. Repeatedly using the relevant provisions to prosecute the same consistently unco-operative detainee may not only induce controversy and legal challenges on the lawfulness, but also involves substantial resources in processing the investigation of criminal cases, thereby we must be prudent.

Recently, another judgment laid down by the Court of Appeal (CA) could better help solve claimants' unco-operative behaviours. In July 2023, the Government lodged an appeal (CACV 229/2023) against the CFI of the High Court for allowing the habeas corpus application of a claimant who had been sentenced to imprisonment for rape. In November 2023, three Justices of Appeal of the CA unanimously allowed the appeal. The relevant judgment specified that any period of prolonged detention or delay in the processing of a non-refoulement claim caused by a detainee's own unco-operative or unreasonable behaviours should not be regarded or counted as an unreasonable period of detention. Otherwise, it would result in an absurd situation where the more unco-operatively the detainee behaves in the removal procedures, the more likely he/she is to be released. That is against the intention of the relevant common law principles. This judgment directly provides clear legal guidance on relevant common law principles, which greatly facilitates the Government in detaining claimants in accordance with the law, without the need to make separate legislation and then spend time and resources on subsequent criminal prosecutions.

(2) & (3) According to Section 37ZK of the Ordinance, a claimant pending final determination of his claim may be detained. From 2021 to 2023, the numbers of claimants detained by the ImmD under Section 37ZK are 263, 241 and 538 respectively, which accounted for 10 per cent, 19 per cent and 25 per cent respectively against the number of new claimants in that year.

When considering detention under Section 37ZK, the Government must carefully consider the legal issues, the use of resources, and the security. The Government is required to follow the relevant legislations, legal principles established by the Court under the common law, such as proportionality and reasonableness as well as the detention policy, and takes into account the individual case circumstances, including whether the final determination of the claim can be obtained within a reasonable time; whether the individual concerned has previously committed a serious crime and if so whether he/she is likely to pose a threat or security risk to the community if not being detained; and whether there is any risk of the individual absconding, offending or re-offending. In 2014, the Court of Final Appeal

ruled that the Hardial Singh principles under the common law must be observed by the ImmD during the course of removal procedures, i.e. such illegal immigrant may only be detained for a period that is reasonable; and the ImmD cannot continue to detain that person if it becomes apparent that it will not be able to effect removal within that reasonable period.

On the use of resources front, the Government must take into account the efficient use of public money and the sustainability of the policy. Based on the number of new claims of some 2 100 received in 2023, and that claimants remained in Hong Kong for an average of three years over the past three years as the estimation basis, invoking Section 37ZK or other provisions in full would require around 6 300 additional detention places. Taking the Stanley Prison as an example, which is the largest correctional institution with a capacity of around 1 500, in order to increase the number of detention places by 6 300, the Government will need to build an additional detention facility with a scale equivalent to four Stanley Prisons. The Government will also need to reserve billions of operating funding and employ an additional thousands of officers to implement such policy, which we must carefully consider.

On the security front, the risks and security issues brought by large scale detention of claimants cannot be underestimated. In the past, Vietnamese migrants were involved in gang-fighting in the closed camps day after day, and even triggered several riots which led to deaths and casualties. For example, in 1992, Vietnamese migrants assaulted each other inside the Shek Kong Detention Centre and set fire to a hut, which led to 24 deaths. Currently, claimants come from different countries, with different cultures and religious backgrounds, which will pose greater security risks.

We have taken into consideration factors including law, financial resources and security, and considered that the suggestion of full detention of all claimants is not appropriate. The Government will continue to gainfully make use of the existing detention facilities to detain claimants who pose higher security risks to the community, and expedite the removal of unsubstantiated claimants from Hong Kong. The law enforcement agencies will also step up enforcement actions against immigration offences and illegal employment, in order to lower the economic incentives of claimants.

Thank you, President.