

LCQ12: Legal aid services

Following is a question by the Hon Paul Tse and a written reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (January 13):

Question:

Under the Legal Aid Ordinance (Cap. 91), a person granted legal aid by the Director of Legal Aid (aided person) may nominate a solicitor/counsel of his/her own choice to act on his/her behalf. As the Legal Aid Department (LAD) acts in accordance with the principle that an aided person's interest is of paramount importance, it fully respects and will not reject any nomination unless there are compelling reasons to do so. In addition, even if a nominee does not meet the requirements concerning year of service and case-handling experience in respect of the relevant type of cases as set out in the Manual for Legal Aid Practitioners, the LAD will still make the assignment according to the will of the aided person. There have been comments that such a practice is unfair to other solicitors/counselors with considerable experience, and fuels the formation of specific economic circles in the legal profession. On the other hand, there have all along been comments from the community querying the excessively lenient criteria adopted by the LAD for vetting and approving legal aid applications, and the excessively high average legal aid expenses of each case. Some members of the public are of the view that the authorities should take measures to improve the legal aid system, with a view to allocating legal aid services that are funded by public money to the needy in a fairer manner. In this connection, will the Government inform this Council:

(1) whether the LAD has stipulated a cap on the legal aid expenses for each case; if so, of the relevant policies and criteria adopted, as well as how such policies and criteria compare with those adopted by other common law jurisdictions (e.g. the United Kingdom, Australia, Canada and Singapore); if not, whether the LAD will, by drawing reference from the practices of such jurisdictions, stipulate the relevant cap;

(2) how the policies under which an aided person (including aided persons of torture claims and judicial review cases) is entitled to nominate a solicitor/counsel of his/her own choice to act on his/her behalf compare with the relevant policies of the aforesaid jurisdictions; whether it has assessed if Hong Kong's relevant policies are overly lenient;

(3) whether there was a phenomenon in the past three years in which legal aid cases of a particular type (e.g. torture claims and judicial review cases) were assigned to several certain solicitors/counselors in an unduly concentrated manner; if so, whether it can set out, by name of such solicitors/counselors, the number of legal aid cases they handled and the total amount of legal fees charged;

(4) among the cases for which legal aid was granted by the LAD in each of the past three years, of the number and percentage of those in which the solicitors/counsels assigned did not meet the aforesaid requirements concerning year of service and case-handling experience; how such figures compare with those of the aforesaid jurisdictions; and

(5) given that currently the LAD will, in vetting and approving legal aid applications, entrust the solicitors/counsels assigned to make an assessment on whether the cases or defences concerned meet the requirement of having a reasonable chance of success, whether the Government has assessed if such a practice constitutes potential conflict of interests; if it has assessed, of the outcome; if not, whether it will conduct an assessment expeditiously?

Reply:

President,

All along, the Government's policy objective of legal aid is to ensure that no one with reasonable grounds for taking or defending a legal action is denied access to justice because of lack of means. The Legal Aid Ordinance (Cap. 91) (LAO) provides that legal aid will only be granted to applicants who satisfy both the merits test and the means test. In assessing the merits of an application, the Legal Aid Department (LAD) will carefully look into and consider the facts of the case, evidence available and the legal principles applicable to the case to determine whether there are reasonable grounds for legal aid to be granted.

The LAO provides that the Director of Legal Aid (DLA) may act for an aided person through in-house professional lawyer or assign any lawyer in private practice selected from the Legal Aid Panel (the Panel) by either the DLA or the aided person. When an aided person nominates a lawyer pursuant to LAO by himself/herself, having regard to the interest of an aided person, the LAD normally gives weight to such a nomination. However, the LAD may also reject the nomination if the lawyer nominated by the aided person is considered not appropriate on grounds such as having previous records of unsatisfactory performance, disciplinary actions taken against the nominated lawyer by a regulatory body, or language requirements of the proceedings which are likely to undermine the aided person's interest in the proceedings; or the aided person has made repeated or late requests for change of lawyer without reasonable grounds. Apart from the nomination made by the aided person, the LAD will, having regard to the principle of protecting the interest of the aided person, consider a series of relevant factors and assign the legal aid case to a suitable lawyer on the Panel. Therefore, instead of assigning cases evenly to lawyers on the Panel, the LAD will, after taking into account the experience and expertise of the lawyers, nature and complexity of the cases, select lawyers from the Panel in accordance with the established guidelines and criteria, including the minimum experience requirements, performance record in handling previous cases, and whether the lawyer has exceeded the limit on assignments of legal aid work.

In general, counsel or solicitors who were assigned legal aid cases

should at least have three years of experience in the legal sector, and should have handled a minimum number of civil or criminal cases in the relevant area of work in the past three years. As regards criminal cases, the LAD has different requirements on the seniority of solicitors/counsel for cases corresponding to the levels of courts concerned. However, under certain special circumstances, such as some cases of exceptional complexity, involving difficult points of law or arguments or of importance, the DLA may, apart from assigning a more senior counsel to handle such cases, exercise discretion to assign another solicitor/counsel on the Panel who has not met the experience requirement to assist in handling such cases. As for cases of special or rare nature, if the LAD has difficulties in identifying a solicitor/counsel from the Panel who had handled sufficient number of relevant cases in the past three years, it may also exercise discretion to assign the case to a solicitor/counsel who is considered competent enough yet has not fully satisfied the abovementioned requirements.

My reply to the questions is as follows:

(1) As some legal aid cases involve very complicated facts of the case and longer trial, to ensure that eligible aided persons will not be denied access to justice because of financial difficulties, the LAD currently has not stipulated a cap on the legal aid expenses for each case. However, the LAD attaches great importance to and closely monitors the performance of assigned lawyers to ensure prudent use of public funds and safeguard of the interests of aided persons. The LAD requires all solicitors and counsel on the Panel to adhere to the Manual for Legal Aid Practitioners, which, inter alia, specify the statutory provisions, the requirements of the LAD and the basis of fees charged by lawyers in handling legal aid cases. Subject to the circumstances of individual cases, the Departmental Monitoring Committee chaired by the DLA will take actions against the assigned lawyers with unsatisfactory performance, which include issuance of warning letter, placing a lawyer on the Record of Unsatisfactory Performance/Conduct, removing a lawyer from the Panel, or/and re-assigning cases to other lawyers.

The LAD does not have the corresponding information of other common law jurisdictions about setting a cap on the legal aid expenses for each case for comparison.

(2) Legal aid policies and coverage vary in different common law jurisdictions, among which the arrangement of allowing the aided persons to select lawyers by himself/herself differs. Thus, it is difficult to have a direct comparison. As far as the LAD understands, a certain degree of freedom is allowed for the aided persons to select lawyers in the United Kingdom and New Zealand. In view of the principle that the aided person's interest is important, as well as the fact that the LAD has an effective mechanism in place to prevent the abuse of services as mentioned above, we do not consider the relevant policies in Hong Kong are overly lenient.

(3) The aided persons tend to select solicitors/counsel with abundant experience and expertise in handling relevant cases as their legal representatives when nominating a lawyer. The LAD's assignment criteria set

the limit on the number of assignments for each lawyer. Specifically, the limits on assignments of legal aid work for each solicitor are 35 civil cases, and 25 criminal cases or costs received for criminal cases reaching \$750,000 in the past 12 months (whichever occurs first); while for each counsel, the limits on assignment are 20 civil cases, and 25 criminal cases or costs received for criminal cases reaching \$1.5 million in the past 12 months (whichever occurs first). The LAD will consider the nominations made by the aided persons in accordance with the relevant criteria. In 2019, a total of 518 counsel and 1 046 solicitors were assigned legal aid cases. Among them, about 80 per cent of counsel and about 85 per cent of solicitors have attained 10 years of experience or more. The LAD does not consider that legal aid cases of particular type were assigned to several certain solicitors/counsel in an unduly concentrated manner.

As a matter of fact, the percentages of granting legal aid to applications concerning non-refoulement claims and judicial review are quite low. From 2017 to 2019, the successful rates for these two types of applications were 3.9 per cent and 5 per cent respectively. They respectively constituted 0.63 per cent and 0.96 per cent of all successful civil legal aid applications.

(4) As abovementioned, the LAD only assigns legal aid cases to solicitors/counsel who have not fully met the experience criteria under some special circumstances. In the past three years (from 2018 to 2020), among the cases which legal aid was granted, the number and percentage of those in which the solicitors/counsel assigned did not satisfy the minimum requirements concerning years of experience and case-handling experience for each year are set out below. All of them were solicitors/counsel assigned by the LAD to assist the more senior counsel in handling the cases.

Year	No. of cases assigned by the LAD	No. of cases where the solicitor/counsel assigned has not met the minimum requirements concerning year of service and case-handling experience	Percentage
2018	11 907	13	0.11 per cent
2019	11 745	36	0.31 per cent
2020	11 497	16	0.14 per cent

The LAD does not have the corresponding figures of other common law jurisdictions for comparison.

(5) All legal aid applications are vetted by professional lawyers employed in the LAD to assess if applicants satisfy both the means test and merits test

and be granted legal aid. After legal aid has been approved, the LAD may assign solicitors/counsel in private practice to handle the cases, which means the LAD does not entrust the solicitors/counsel in private practice already assigned with the cases to assess the chance of success. On the other hand, if complicated legal issues are involved in the application, the LAD may seek independent legal opinion from counsel in private practice on the merits of the application under section 9 of the LAO (section 9 opinion) to help the LAD determine whether legal aid should be granted. To enable a counsel to give unbiased and impartial advice and avoid conflict of interest, if a counsel's section 9 opinion considers that the LAD should grant legal aid to an applicant, the counsel concerned normally will not be assigned to handle the relevant case. Therefore, the current vetting mechanism for legal aid applications does not constitute any potential conflict of interest.

LCQ7: Banners displayed by members of District Councils

Following is a question by the Hon Wong Ting-kwong and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (January 13):

Question:

The findings of a survey, conducted by an organisation in November last year on the contents of the banners displayed by members of the District Councils (DC members) on roadsides and in other public places, reveal that as many as 84 banners contained inappropriate contents such as those discrediting the Government or the Central Authorities, or spreading false statements and hate speeches. In this connection, will the Government inform this Council:

(1) whether it removed, in the past three years, any banners displayed by the DC members in public places on the grounds that such banners contained inappropriate contents; if so, of the number of those banners removed and their contents; if not, the reasons for that;

(2) of the government departments which are currently responsible for vetting and approving the applications from the DC members for displaying banners in public places, and the respective vetting and approval criteria adopted by them; if such criteria are not consistent, whether they will standardise such criteria, and incorporate the following criterion currently adopted by the Housing Department: the contents of the banners should not carry any messages that are unlawful, obscene, defamatory, insinuating, criticising or denouncing individual persons/parties; if so, of the details; if not, the

reasons for that;

(3) of the measures in place to prevent the DC members from displaying banners containing inappropriate contents in public places; whether it will consider rejecting those claims submitted by them for reimbursement of the expenses concerned; if so, of the details; if not, the reasons for that; and

(4) whether it will provide incentives to encourage members of the public to report those banners displayed in public places which contain inappropriate contents, so as to enhance the effectiveness of the regulatory efforts; if so, of the details; if not, the reasons for that?

Reply:

President,

In consultation with the Development Bureau, the Home Affairs Bureau and the Transport and Housing Bureau, I provide a consolidated reply to the Member's question as follows:

(1) to (3) Under delegated authority of the Director of Food and Environmental Hygiene under section 104A(1)(b) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance), relevant officers of the Lands Department (LandsD) assign designated spots to members of the Legislative Council (LegCo) and the District Councils (DCs) for display of publicity materials through the Management Scheme for the Display of Roadside Non-commercial Publicity Materials (the Management Scheme). The Management Scheme aims to allow members of the LegCo and the DCs to display non-commercial publicity materials related to community affairs, for the purpose of promoting public awareness and participation in matters of district administration and community building, and ensuring that roadside public space is utilised in a safe and orderly manner.

All publicity materials displayed at the designated spots under the Management Scheme must comply with the objectives and requirements as set out in the Implementation Guidelines of the Management Scheme (the Guidelines), including those regarding size of the publicity materials, their display location, the requirements of display, content and information imparted by the publicity materials (including the information imparted must not promote any commodities, services provided at a fee or fee paying activities, must be in compliance with the laws of Hong Kong, must not be of an obscene or objectionable nature etc.), and that the designated spots must not be transferred, loaned out or assigned to other users.

Upon receipt of complaints regarding the publicity materials under the Management Scheme, the LandsD and relevant departments (including the Food and Environmental Hygiene Department (FEHD) and the Home Affairs Department) would follow up having regard to the circumstances of each individual case, in consultation with legal advice when necessary. If the publicity material violates the Guidelines, the LandsD would inform the allocatee of the concerned designated spot that the permission for display has been revoked,

and he/she is required to remove the publicity material by a specified deadline. Should the non-compliant publicity material not be removed by the deadline, the FEHD would remove the publicity material under section 104C(1) of the Ordinance upon verifying with the LandsD that permission has been revoked, and recover the removal costs from the person concerned.

For cases involving the DC members' display of publicity materials violating the Guidelines with permission of display revoked, the concerned District Lands Office will inform the concerned District Office of the decision. The expenses in respect of such publicity materials will not be reimbursable as printing and publicity item under the Operating Expenses Reimbursement.

According to the LandsD's records, during the period from January 2018 to December 2020, there were a total of about 2 000 pieces of publicity materials displayed by members of the LegCo and the DCs under the Management Scheme with permission of display revoked due to non-compliance with the Guidelines, and were required to be removed or removed by the FEHD under section 104C(1) of the Ordinance. The LandsD does not keep separate statistics on the publicity materials that were non-compliant with the content requirements of the Guidelines.

(4) There is avenue for members of the public to lodge complaints under the existing mechanism. If any member of the public suspects any publicity material under the Management Scheme to be non-compliant with any prevailing requirements/laws, they may lodge their complaint with the LandsD, District Lands Offices or via the 1823 hotline. The relevant District Lands Office, upon receipt of complaints or referrals, would follow up as appropriate.

[LCQ1: Procurement of drugs and high-value medical supplies](#)

Following is a question by Dr the Hon Chiang Lai-wan and a reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (January 13):

Question:

It is learnt that the Mainland authorities have implemented, since 2019, the Pilot Program of the Centralized Procurement and Use of Drugs Organized by the State as well as the Reform Plan for the Control of High-value Medical Supplies, with a view to lowering the unit prices of drugs and high-value medical supplies through bulk procurement, thereby alleviating the burden on patients. For instance, the National Healthcare Security Administration has recently made a bulk procurement of over one million vascular stents for use

in percutaneous coronary intervention (PCI) operations at a purchase price of around Renminbi (RMB) 700 only for each stent which had a marked price of RMB13,000. In this connection, will the Government inform this Council if it knows:

(1) the respective unit prices of expensive drugs for treating cancers such as Cetuximab, Nilotinib and Osimertinib procured last year by the Hospital Authority (HA), and how such prices compare to the prices of the relevant drugs the bulk procurement of which was made by the Mainland authorities in the same period;

(2) the number, place(s) of origin and unit price(s) of the vascular stents procured in each of the past three years by HA for use in PCI operations; and

(3) whether HA has discussed with the Central Authorities or the relevant authorities of the Mainland cities in the Guangdong-Hong Kong-Macao Greater Bay Area the prospect for HA to participate in the mechanism of the Mainland for the bulk procurement of drugs and high-value medical supplies; if HA has, of the details; if not, the reasons for that?

Reply:

President,

In consultation with the Hospital Authority (HA), I provide a reply to the various parts of the question raised by Dr the Hon Chiang Lai-wan as follows:

It is the Government's public healthcare policy to ensure that no one is denied adequate medical treatment due to lack of means. As the major provider of public healthcare services in Hong Kong, the HA provides patients with medical services and drugs as well as medical items at highly subsidised rates based on their clinical needs and in accordance with its treatment guidelines. Financial assistance is provided through the safety net, which is composed of the Samaritan Fund and Community Care Fund Medical Assistance Programmes, to subsidise the medical expenses of patients who have financial difficulties in purchasing Privately Purchased Medical Items and self-financed drugs listed on the HA's Drug Formulary at their own costs. The HA also holds discussions with pharmaceutical companies from time to time on setting up patient access programmes for specific expensive drug treatments to provide patients with sustainable, affordable and optimal drug treatments in the long term.

The objective of HA's procurement policy is to ensure operational efficiency, fairness and accountability while actively introducing market competition and achieving economies of scale, so as to obtain pharmaceutical products and medical consumables at the best value-for-money through appropriate tendering or quotation processes.

Specifically, the procurement of pharmaceutical products and medical consumables is governed by the mechanisms and procedures set out in the

Hospital Authority Procurement and Materials Management Manual, which was formulated with reference to the Stores and Procurement Regulations of the Government. Such procurements are also in compliance with the relevant provisions of the World Trade Organization Agreement on Government Procurement as well as the international regulatory requirements for pharmaceutical products. When procuring pharmaceutical products or medical consumables, experts from relevant specialties will consider various factors such as quality, safety, efficacy, cost-effectiveness and experience from the clinical application of the product to ensure that they meet the operational needs.

(1) Regarding the procurement of cancer drugs, given the commercial sensitivity of drug price information and in order not to prejudice fair competition in the procurement process, the HA will not disclose the unit prices of the drugs procured. The HA is also unable to provide relevant price comparisons as it does not have information about the prices of drugs in the local and overseas markets or those purchased by private clinics.

While drawing a general comparison of drug prices in different countries/regions for the purpose of assessing the provision of sustainable and affordable medical treatment for patients, it is necessary to consider other important factors, such as local healthcare policy and drug subsidy mechanism as well as various treatment options.

(2) On the procurement of coronary stents for use in percutaneous coronary intervention service, the HA requires tenderers to provide information on the licence and registration of the coronary stents, such as manufacturer licences issued by the governments or health authorities of the manufacturing site and international or equivalent standard in production and quality management system for the product. Currently, the HA procures coronary stents from different places, including the Mainland, Europe and the United States, and uses around 13 000 to 15 000 coronary stents each year. Clinicians will advise on the types and models of coronary stents to be used for individual patients having regard to their clinical situations. Given the commercial sensitivity of certain procurement information (such as the unit prices of coronary stents), the requested information cannot be disclosed.

(3) As the legal and healthcare systems, as well as import and export mechanisms of drugs are different in Hong Kong and the Mainland, collaboration with the Mainland in the procurement of drugs and high-value medical consumables involves considerations on various aspects. The HA stays open and maintains communications with different stakeholders and learn from their experience, and will carefully consider various factors to explore the feasibility of collaboration.

To facilitate Hong Kong residents to seek suitable healthcare services in the Guangdong-Hong Kong-Macao Greater Bay Area (GBA) and attract medical and pharmaceutical enterprises to expand businesses in the Mainland cities of the GBA, the Hong Kong Special Administrative Region Government will implement as soon as possible the measure of using Hong Kong-registered drugs with urgent clinical use, and medical devices used in Hong Kong public

hospitals with urgent clinical use and advanced clinical applications at The University of Hong Kong – Shenzhen Hospital on a trial basis subject to the approval of the Guangdong Province, and extend the policy to cover more designated healthcare institutions, drugs and medical devices in a timely manner. We believe that the new measure will not only help attract local and multinational pharmaceutical, biomedical and medical technology companies to apply for registration of new pharmaceutical products in Hong Kong, but also improve the level of healthcare services in the GBA.

Thank you, President.

LCQ19: Face masks produced with government subsidies

Following is a question by the Hon Chan Hak-kan and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (January 13):

Question:

In March last year, the Government launched the Local Mask Production Subsidy Scheme (the Scheme) to provide subsidies to manufacturers for producing face masks locally in order to meet the needs of the Government and society. The first two million face masks produced each month by each subsidised face mask production line (with 20 lines in total) must be sold to the Government for a period of one year, while the manufacturers concerned may sell the remaining face masks in the local market. The Hong Kong Productivity Council (HKPC) was engaged to administer the Scheme and serve as the Secretariat. Besides, the Innovation and Technology Bureau was provided with funding for the research and development (R&D) as well as the production of the reusable CuMask+™ (CuMask) for distribution to all members of the public in Hong Kong. In this connection, will the Government inform this Council:

(1) (i) in respect of the face masks procured by the Government under the Scheme, of (a) the quantity, (b) the average unit price and (c) the total expenditure involved, as well as (ii) the number of such face masks distributed to various government departments, in each month since the Scheme was launched;

(2) whether it knows the total quantity of face masks currently made available to the market by the subsidised production lines each month, and the average unit cost of such face masks;

(3) of the respective amounts of subsidies disbursed to the various

production lines so far;

(4) of the amount of fees payable to the HKPC by the Government under the Scheme and its percentage in the estimated expenditure of the Scheme;

(5) of the current stock of face masks kept by the Government, and how it will deal with the surplus face masks; and

(6) of the respective quantities of CuMask distributed to members of the public in the first and second rounds of distribution; the current stock of CuMask, and how the Government will deal with the stock?

Reply:

President,

In consultation with the Financial Services and the Treasury Bureau and the Innovation and Technology Bureau (ITB), our reply to the various parts of the question raised by the Hon Chan Hak-kan is as follows:

(1) to (3) As at December 31, 2020, the Government disbursed a total of about \$14 million in capital subsidy to the 20 production lines under the Local Mask Production Subsidy Scheme (the Scheme). The amount of capital subsidy disbursed to each production line is tabulated at Annex 1. The 20 production lines had collectively delivered over 250 million masks to the Government during the period from June to December 2020, and the monthly breakdown is at Annex 2. Based on information provided by the production lines, the estimated average price of a mask procured by the Government under the Scheme is \$1.39. This figure is subject to change after vetting of supporting documents and calculations provided by the production lines. All of the information above has been uploaded to the website of the Hong Kong Productivity Council (HKPC) (u.hkpc.org/mask) and will be updated monthly.

A subsidised production line that has supplied the Government with two million masks in a month may then decide on the disposal arrangements for the remaining masks it produces, which may include, for example, distributing them to employees for personal use, selling or donating them to individual organisations, and selling them through the local retail market. However, under no circumstances can the masks be exported.

The Government Logistics Department (GLD) started to distribute the masks procured under the Scheme to Government departments since August 2020. During the period from August to November 2020, the GLD distributed on average about 8.05 million masks procured under the Scheme to Government departments per month.

Furthermore, in order to share with the public the first batch of masks procured under the Scheme, the Government distributed about 28 million masks to residential addresses in Hong Kong from June to July 2020. Thereafter, approximately three million masks were distributed to members of the public participating in the Universal Community Testing Programme in September 2020.

(4) The estimated expenditure for the Scheme is \$1.1 billion, of which \$5.36 million is allocated to the HKPC to manage the Scheme and serve as the secretariat. This amounts to less than 0.5 per cent of the estimated expenditure for the Scheme.

(5) As at end December 2020, the GLD had about 300 million masks in stock. As Government departments' demand for masks will vary depending on the development of the epidemic situation, the Government will continue to closely monitor the departments' demand for masks and make arrangements for the distribution of masks in stock.

(6) According to the information provided by the ITB, as at January 11, 2021, the Government has distributed around 10.34 million CuMask+™ in total. The remaining stock is around 450 000 at present. Around 4.14 million and around 3.6 million masks were delivered by the Hongkong Post and distributed via post offices and estate management offices under the Hong Kong Housing Authority and the Hong Kong Housing Society in the first and second rounds respectively. In addition, the Government has distributed around 1.67 million masks via kindergartens, primary schools, and secondary schools, around 770 000 masks via service points of social welfare institutions, residential homes, Consulate Generals, and associations supporting ethnic minorities, as well as around 160 000 masks via three boundary control points (viz. Hong Kong International Airport, the Shenzhen Bay Port, and the Hong Kong-Zhuhai-Macao Bridge Hong Kong Port). Upon the implementation of the Return2hk Scheme, the Government will continue to distribute the CuMask+™ in three boundary control points to Hong Kong residents returning to Hong Kong.

[LCQ13: Regional Comprehensive Economic Partnership Agreement](#)

Following is a question by the Hon Chan Chun-ying and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (January 13):

Question:

A total of 15 countries such as China and the ten ASEAN states signed the Regional Comprehensive Economic Partnership Agreement (RCEP) in November last year, with an aim to promote regional economic integration and progressively attain an overall tariff abolition rate of 91 per cent. The Financial Secretary has stated that the Government will strive to make Hong Kong one of the first batch of economies joining RCEP after it takes effect. In this connection, will the Government inform this Council:

- (1) of the concrete plan and timetable for spurring Hong Kong's joining RCEP;
- (2) whether it has assessed the opportunities and challenges that joining RCEP may bring to Hong Kong; if so, of the details; if not, the reasons for that;
- (3) given that the RCEP signatories, for the sake of complying with the rule of "direct consignment" so as to enjoy tariff reduction, may avoid transshipment of goods through a third place that is not a RCEP signatory, whether the Government has assessed the impact of such situation on Hong Kong's re-export trade; if so, of the assessment outcome; if not, the reasons for that; and
- (4) given that Hong Kong is the world's largest offshore Renminbi (RMB) business hub, whether the Government has plans to promote the use of RMB for trade settlements in Hong Kong among the importers and exporters of the RCEP signatories; if so, of the details; if not, the reasons for that?

Reply:

President,

Hong Kong has been a staunch supporter of trade and investment liberalisation. It actively seeks to forge Free Trade Agreements (FTAs) and Investment Promotion and Protection Agreements (IPPAs) with overseas economies to expand Hong Kong's economic and trade network, with a view to attaining preferential access to international markets for Hong Kong's goods, services, and investments, as well as assisting Hong Kong enterprises in market diversification to facilitate Hong Kong's participation in regional economic integration. So far, Hong Kong has signed eight FTAs with 20 economies and 22 IPPAs with 31 overseas economies. Hong Kong will continue with its efforts to forge more of such agreements with individual economies as well as on a regional level. And on the regional level, Hong Kong is already well placed to seek early accession to the Regional Comprehensive Economic Partnership (RCEP).

Reply to the four parts of the question is as follows:

(1) and (2) Fifteen economies including Mainland China, the ten member states of the Association of Southeast Asian Nations (ASEAN), Australia, Japan, Korea, and New Zealand signed RCEP in November last year. It is the largest FTA in the world, covering about 30 per cent of the world's population and accounting for one-third of the global GDP. In 2019, the total trade between Hong Kong and the 15 RCEP participating economies amounted to US\$765.5 billion, accounting for 71 per cent of Hong Kong's total trade.

Joining RCEP is an important milestone for Hong Kong's further participation in regional economic cooperation, which will not only facilitate Hong Kong's further integration into the regional value chain and strengthen the economic, trade, and investment ties between Hong Kong and RCEP participating economies in the region and hence driving regional

economic growth, but also bring benefits to Hong Kong's goods and enterprises under the relevant measures in RCEP such as tariff reduction, preferential market access, removal of trade barriers and simplified customs procedures, etc. It will lower the costs of trading and provide new business opportunities for Hong Kong's goods and enterprises to expand their markets in the region, thereby providing a momentous drive to global economic recovery in the post-pandemic era.

As highlighted in "The Chief Executive's 2020 Policy Address", as a major financial and trade centre and a logistics hub of the region, coupled with our high quality FTAs signed with 13 of the RCEP participating economies (i.e. Mainland China, ASEAN, Australia and New Zealand), Hong Kong is well placed to join RCEP.

The HKSAR Government indicated, as early as in 2018, to individual RCEP participating economies at various levels and on various occasions our keen interest in joining RCEP. In November 2019, when the text-based negotiations were concluded, the Secretary for Commerce and Economic Development (SCED) wrote to individual RCEP participating economies reiterating Hong Kong's interest to join RCEP, and received positive responses that Hong Kong's accession to RCEP could be facilitated in accordance with the relevant provisions set out in the Agreement after its entry into force. SCED wrote again to the participating economies after RCEP was signed end of last year to reiterate Hong Kong's interests in joining RCEP. The government is actively engaging individual RCEP participating economies for early commencement of discussions on Hong Kong's accession with the aim to be among the first batch of economies joining RCEP after its entry into force.

(3) According to the "Direct Consignment" clause (Note 1) under RCEP, an originating good must be transported directly from an exporting Party to an importing Party in order to enjoy the tariff preference. Nonetheless, it is stipulated that the transportation of goods via non-Parties could be perceived as direct consignment between the importing and exporting Parties and enjoy relevant tariff preference, provided that the good has not undergone, save for under certain specified conditions, any further processing and remains under the control of the customs authorities in the non-Parties. The above-mentioned specified conditions include logistics activities such as unloading, reloading, storing, or any other operations necessary to preserve in good condition or to transport it to the importing Party. As RCEP has yet to enter into force, pending the completion of domestic procedures of the RCEP participating economies, the government is not in the position to assess the actual impact of the "Direct Consignment" clause on Hong Kong's trade at this stage.

Notwithstanding the above, since Hong Kong has already signed FTAs with 13 of the RCEP participating economies, the impact of the "Direct Consignment" clause under RCEP on Hong Kong's re-exports is expected to be limited.

In addition, the HKSAR Government has implemented the "Free Trade Agreement Transshipment Facilitation Scheme" (the Scheme) since 2015. The

Scheme aims to facilitate cargoes passing through Hong Kong to enjoy preferential tariffs under the FTAs and preferential trade arrangements signed by Mainland China with other economies through the provision of customs supervision services and issuance of "Certificate of Non-manipulation" to certify that the cargoes have not undergone further processing during their stay in Hong Kong. At present, the Scheme covers 15 FTAs and preferential trade arrangements signed between Mainland China and other economies, including 14 RCEP participating economies (excluding Japan). The HKSAR Government will closely monitor the development of RCEP and explore the feasibility of extending the Scheme to cover RCEP, with a view to facilitating more cargoes passing through Hong Kong to enjoy relevant preferential tariffs.

(4) As Mainland China is the largest economy amongst the RCEP members, it is expected that RCEP would forge a conducive environment to promote cross-boundary Renminbi (RMB) trade settlement and investment, thereby elevating the level of RMB usage in the region. As the leading global RMB trade settlement centre, Hong Kong has been supporting various types of cross-boundary and offshore RMB trading activities, Hong Kong's offshore RMB financial and foreign exchange markets, as well as various mutual market access schemes, providing market participants with diversified options and convenient channels for their RMB risk management and financial investments. In the first 11 months in 2020, Hong Kong processed over RMB5,700 billion worth of RMB trade settlements, which is an increase of 20 per cent compared to the same period in 2019. Hong Kong also has the world's deepest offshore RMB liquidity pool of over RMB700 billion. The government will closely monitor the development of RCEP and continue with our efforts to further promote market development with a view to consolidating Hong Kong's position as a global hub for offshore RMB business.

Note 1: The relevant clause in the legal text reads, "[the good] has not undergone any further processing in the intermediate Parties or the non-Parties, except for logistics activities such as unloading, reloading, storing, or any other operations necessary to preserve it in good condition or to transport it to the importing Party; and remains under the control of the customs authorities in the intermediate Parties or the non-Parties".