

## FOREWORD

### 1. A NEW YEAR, A FRESH START

Winter passes and spring arrives, nights turn into days – the human history evolves with the never ending cycles of nature. Macao's development has been witnessing the wisdom, industry and simplicity of its people. Once an obscure town with a population of 200,000, a few millions of tourists and a GDP of several billions, the city has transformed into an international metropolis with a population of 500,000, tens of millions of tourists and a GDP of hundreds of billions, exuding its most fascinating charm ever. The city's advancement, population growth, social and industrial transformation are all in close connection with public administration. The levels of fairness, efficiency, openness and timeliness of policies and measures for addressing social requests are all the gauges of how efficacious and legitimate a system is. A fair social system serves as the cornerstone of balanced, robust and sustainable development.

### 2. EMBRACE THE FACTS, PERFECT THE LEGAL SYSTEM

In the article commemorating the 12<sup>th</sup> anniversary of Macao's handover to China, Bai Zhijian, Director of the Liaison Office of the Central People's Government in the Macao Special Administrative Region, wrote: "(...) Macao is to be shaped as a confluence of Chinese and Western cultures, a place that is beautiful, livable, with sound legal systems and well-managed. This will be a long-term, arduous task that cannot be realized without social consensus (...). Experiences prove that legislation and system building are meant for long-term and fundamental issues, and they lay the foundation for the prosperity and stability of Macao. Therefore, legal system construction should always be our first and foremost priority. Grounded on Macao's practical situation, it is necessary to achieve social consensus, step up the law making process and perfect the public administration (...)." This is indeed a pithy and insightful piece of writing. It brings out the nature of systems: being fundamental, long-lasting and stable. System building is, therefore, a vital step in corruption-fighting. Our human history shows that a deficient system could give rise to maladministration, injustice and corruption hotbeds and take toll on the efficiency of the authority in addressing social issues, thereby resulting in public outcries and grievance. As a saying goes, a tree does not wither overnight.

In the course of integrity building around the world, the common aspects particularly prone to corrupt practices include administrative examination and approval, market surveillance, public procurement, contraction of construction activities as well as medicine procurement and sales. The best solution is a thorough review with corrective steps and precautionary measures. Identifying corruption risks<sup>1</sup> and establishing early warning systems<sup>2</sup> to prevent corruption

not only can reduce or eradicate risks, but can also bring holistic solutions to problems and contribute to the establishment of a healthy, invulnerable legal system. How to propel the realization of goals of public services, how to boost the efficiency of policy implementation and how to cope with various corruption risks in public administration and its development are among the widely discussed topics nowadays. We believe that the incorporation of early warning systems into the policy management mechanisms plays an important part in system building. There are yet other issues we should not neglect, namely, loopholes and defects in system building and implementation as well as the relationships between institutional corruption risks<sup>3</sup>, the whole system and government enforcement. The so-called stopgap measures can no longer take any effect in the dynamic development of Macao today. We must not lower our guard against the institutional corruption risks, as they can be even more hazardous than those derived from poor implementation<sup>4</sup>.

In 2011, the reports and complaints processed by the CCAC totaled more than 800. A considerable number of them were found to be engendered by the outdated systems, poor efficiency of public services, lax law enforcement and noncompliance with law. None of these are irrelevant to policies and public administration. As a Chinese saying goes, "One cannot form squares and circles without a square and a compass". Without a sound system, justice and rational requests can hardly be realized and addressed in society. This is how institutional corruption risks are evolved and hamper social development.

### 3. BUILD A CLEAN AND JUST SYSTEM

While a sound and robust system demonstrates foresights, effectiveness, fairness, enforceability and legitimacy, it also values probity and transparency. This is beneficial to social modernization and provides a strong basis for stability and sustainability. Today, graft-fighting has become a universal goal on the planet. Constructing a city of fairness and probity is a common wish of Macao residents.

Unity is strength. Both opportunities and challenges are ahead of us in the brand new year, like the days seeing a mixture of sunny intervals and showers. As a government watchdog, the CCAC will continue to dedicate itself to finding holistic solutions to problems whilst tackling the pressing issues, and taking preventive steps whilst imposing strict punitive measures. Let us pool our wisdom and efforts to build a clean, graft-free society.

**The Commissioner Against Corruption, Macao**  
**Fong Man Chong**

<sup>1</sup> Possibilities where corruption acts can take place.

<sup>2</sup> The employment of scientific approaches and modern techniques to analyse corruption risk information and assess their levels and development trends, as well as the adoption of relevant preventive steps and countermeasures.

<sup>3</sup> Risks existing in anti-corruption institutions of the public sector. They are relevant to the administration system, government enforcement and also the institutional environments.

<sup>4</sup> Risks derived from anti-corruption surveillance of the public sector.



## Policy Address 2012 in the Area of Integrity Building

The Chief Executive Dr. Chui Sai On announced the Policy Address 2012 in mid-November 2011. The anti-corruption policies are summarized as below:

### I. FOREWORD

In 2011, the CCAC, driven by the goal of exerting “supervision on integrity”, “supervision on law-enforcement” and “supervision on effectiveness”, further strengthened its role on supervising public departments and private entities. At the same time, it strived to combat corruption and relevant illicit acts as well as enhanced the integrity building in Macao SAR.

Facing the new mission and challenges brought by the law *Prevention and Suppression of Bribery in the Private Sector* and the public's demand for a transparent, clean and harmonious society, the CCAC adopted a series of measures, including improving internal management and operation process, strengthening professional training for its personnel, recruiting more staff members, deepening integrity promotion for public servants, private entities, professional associations, teenagers and the general public, reviewing and revising the *Organizational Law of the CCAC* and the legal system of *Declaration of Incomes and Properties*, and strengthening cooperation in cross-boundary cases and international judicial assistance.

In 2012, the CCAC will make a great effort on enhancing integrity building in the community apart from fulfilling its statutory duties.

### II. ANTI-CORRUPTION

#### 1. To boost the efficiency of case investigation and standard of law-enforcement in response to the demand brought by revision of the organizational law

In response to the demand brought by the revision of the *Organizational Law of the CCAC* to be completed soon, the CCAC will comprehensively review all cases being processed currently as well as adopt effective measures to boost the efficiency and quality of case investigation in order to meet the requirements about limitation under the revised law. Meanwhile, investigative staff's sensitivity to confidentiality, ability of analysis and detection and law-enforcement standard will be enhanced through internal training, especially in the aspect of criminal laws.



#### 2. To meet social demand for anti-corruption efforts by enhancing staff's legal knowledge and their ability to gather intelligence and take action

To support the policy of building a transparent government and meet the demand brought by social development, the CCAC has the need to strengthen its ability to investigate cases of corruption in the private sector and criminal offences committed by public servants. Therefore, the CCAC will do the best to implement the policy to foster its personnel's quality and ability by launching more internal training programmes and seminars and inviting experts in related fields to deliver lectures aiming to enhance staff's legal knowledge and ability to gather intelligence and take action. Meanwhile, supervisory staff's leading skills will be strengthened in order to effectively motivate their subordinates, in exerting their strengths. As a result, the resources of the Anti-Corruption Bureau will be allocated in a reasonable way and their effect will be maximized.

#### 3. To increase technical support for frontline staff and establish a human-oriented management system in order to elevate staff's quality

Due to the complexity of corruption cases and the difficulties the investigators are facing, the CCAC will continue to increase technical support for them and carry out systemic reform by establishing a human-oriented management system.



#### 4. To continuously enhance cooperation in cross-boundary cases and international judicial assistance to deal with challenges resulted from regional cooperation and globalization

Globalization has brought much convenience to money transfer, transportation and information exchange among culprits, provided better shelter for criminal activities and facilitated criminals' countermeasures against investigation. In response to this, the CCAC will continue to, in compliance with the government's overall policy, dedicate itself to enhancing cooperation in cross-boundary cases and international judicial assistance.

### III. OMBUDSMAN

1. To carry out investigation into complaints and reports about public administration in accordance with law and to rectify administrative irregularities in the procedures and conducts of public services and entities.
2. To launch training courses for the staff of the Ombudsman Bureau to enhance their knowledge of various spheres covered in their work.
3. To enhance communication with various public departments to ensure that various issues raised by the public are solved promptly.
4. To deepen integrity education among public servants and their understanding of the procedure of public procurement and to continuously assist with the public departments and organize seminars for them.
5. To organize a variety of seminars on special topics in order to enhance the understanding of the law *Prevention and Suppression of Bribery in the Private Sector* among the circles and establish a collaborative relationship with them.



### IV. PROMOTION AND EDUCATION

1. To further promote integrity education to public servants by enhancing the law-abiding awareness, level of justice and integrity in work and conducts from middle and senior ranking officers to junior ranks.
2. To continuously promote the law *Prevention and Suppression of Bribery in the Private Sector* among private organizations and various circles, and to foster a management culture that upholds clean business operation and fair competition by encouraging the circles to, with their cooperation and consensus, establish internal codes of conduct that value integrity.
3. To enhance integrity education and promotion to teenagers and the general public, to bring the Branch Offices' capacity into full play, to vigorously develop the network of community relations and to increase public support for and engagement in integrity building.







## Legislative Assembly Gives General Approval for the Bill to Revise Law *Declaration of Incomes and Properties*

To act in accordance with the directive of the Chief Executive Dr. Chui Sai On, the Commissioner Against Corruption Fong Man Chong attended the plenary meeting of the Legislative Assembly on behalf of the Macao SAR Government in the afternoon on 16<sup>th</sup> December 2011, where Fong introduced the bill to revise Law no. 11/2003 *Declaration of Incomes and Properties*. In the end the bill received general approval of all legislative members.

Major revisions put forward in the bill are listed below:

**1. Disclosure of assets and outside positions of some officials:**

To enhance supervision and avoid conflicts of interest, part of the assets of public office holders and their outside positions held concurrently should be disclosed.

**2. Improving the declaration procedure:**

The asset declaration procedure can be improved when various difficulties in practice are solved and problems that have caused confusion and ambiguity are eliminated.

**3. Cutting back administrative costs:**

Designated forms for asset declaration have been in use. To save the time of the declarants and cut back administrative costs, these forms should be downloadable from relevant website(s).

**4. Eliminating ambiguous concepts:**

In the existing law there are some legal terms and concepts that may lead to misunderstanding and confusion, hence they should be simplified, clarified and consistent.

**5. Introducing computer technologies in the declaration procedure:**

For saving paper and printing costs and simplifying the procedure, electronic methods should be adopted in the declaration procedure, especially for the part to be disclosed to the public.

**6. Stipulating the document destruction policy:**

Since the property declaration law took effect, relevant documents have never been destroyed, including those of the declarants who have deceased for many years. This has caused various problems to the administrative entity, such as inadequate storage capacity and growing burdens on archive management, hence the relevant policy for document destruction should be clarified and perfected.



While introducing the bill, the Commissioner Fong Man Chong said that the amendments were intended to increase transparency and probity in public administration, which would facilitate the implementation of the government's "Sunshine Policy" and enhance relevant regulation mechanisms. The Commissioner pointed out that with the tremendous economic development taking place in Macao and its obligation to comply with the *United Nations Convention against Corruption*, the society was calling for more openness and probity in public administration. To be more specific, more transparency was needed in the operation and decision making process and social monitoring over the decision makers had to be enhanced. Given that the property declaration law for public servants had been put into practice for more than eight years, some of its provisions necessitated changes. After all, disclosure of property of public office holders played an important role in increasing public servants' devotion to their duty and building the principal officials' accountability system. It served not only to promote the efficiency, level of integrity and transparency of the administration, but also to prevent corruption and increase the public's confidence in the government.



## Vice Minister of Supervision of China Wang Wei Visited Macao

Invited by the CCAC, the Vice Minister of Supervision of China, Wang Wei, led a delegation to Macao for a four-day visit starting on 13<sup>th</sup> November 2011 during which he met with the Chief Executive, Dr. Chui Sai On, at the Government House to exchange views on enhancement of integrity building and probity culture in society. Moreover, Mr. Wang also had a meeting with the Commissioner Against Corruption, Fong Man Chong, during which they exchanged opinions about the works on integrity building in the two places.

The Chief Executive introduced the latest social and economic development in Macao and acknowledged the Ministry of Supervision's long-term support of the development of Macao SAR and the CCAC's works, hoping to enhance the exchange and cooperation with the Ministry in the new era of economic development in order to further strengthen integrity building and effectiveness of governance.

Mr. Wang stated that during the visit, he observed the steady and harmonious society and prosperity of Macao, hoping that development will continue and integrity promotion will be further enhanced.

During the meeting, Dr. Fong introduced to Mr. Wang the CCAC's efforts in graft-fighting, ombudsman and education and dissemination. He thanked the Ministry for its support along the way, hoping that both sides would elevate the partnership to a new level by strengthening communication and exchange.



Chief Executive, Dr. Chui Sai On, meeting with Vice Minister of Supervision of China, Wang Wei



Vice Minister of Supervision of China, Wang Wei and the Commissioner Against Corruption, Fong Man Chong

Mr. Wang added that his understanding on Macao's integrity building had deepened during the visit. He recognized the direction of the CCAC's undertakings and acknowledged its devotion to system building, corruption prevention, and integrity education that has seen great achievements.

The two parties agreed that continuous efforts had to be made to consolidate the building of the integrity system. They especially shared ideas on the work of property declaration of civil servants, as well as the latest development and experiences in the relevant aspect. Mr. Wang stated that they were impressed and much inspired by the current property declaration system of Macao.

The other five delegates included Director General of General Office of the Ministry of Supervision (MOS), Fu Kui, Deputy Director General (Bureau-Level) of Performance Management of Supervision

Department of the MOS, Chen Yong, Deputy Director General (Bureau-Level) of the Foreign Affairs Bureau, Shao Shu Wang, Inspector, Sun Hong Wei, and Deputy Director of Inspection and Research Division, Luo Ning.





## THE REGIONAL CONFERENCE ON CIVIL SERVICE INTEGRITY



The Commissioner Fong Man Chong addressing the Conference

The Commission Against Corruption of Macao, the Ministry of Supervision (MOS) of China and the Independent Commission Against Corruption of Hong Kong (ICAC) co-hosted the Regional Conference on Civil Service Integrity between 10<sup>th</sup> and 11<sup>th</sup> November 2011 at the Theatre of the ICAC Building, Hong Kong. The Commissioner, Fong Man Chong, led a delegation and attended the Conference.

Wang Wei, Vice Minister of Supervision of China, Fong Man Chong, the Commissioner Against Corruption of Macao, Timothy Tong Hin-ming, the Commissioner of Hong Kong ICAC and Denise Yu Chung-yee, Secretary for Civil Service of Hong Kong addressed at the opening ceremony of the Conference.

The Vice Minister of Supervision, Wang Wei expressed that honesty and trustworthiness are the fundamental requirements in constructing a society of social services and establishing a society of accountability and the rule of law. The integrity of the government will play a guiding role in the building of business integrity and social integrity. In recent years, a number of provinces and cities in Mainland China uphold the concept of “honesty is credibility” and adopt the principle of “law abidingness and honesty, openness and transparency” in initiating works such as government procurement. He stressed that honesty and trustworthiness are most crucial to the overall ethical management in the civil service, and that it is paramount for public servants to uphold these core values.

The Commissioner, Fong Man Chong, pointed out in his speech that the establishment of integrity management system and culture is the common objective of the three governments and the wishes of the people. He noted that government officials should not abuse their power for personal gain. Instead, they ought to improve the management system and culture of civil servants, instilling

the integrity culture in public administration so as to promote the probity atmosphere of society. Regarding the management system of public servants, responsibility, duty and discipline should be of prior importance, their attitude towards power and professional ethics are also critical.

The Commissioner of Hong Kong ICAC, Timothy Tong Hin-ming stated that it has been a worldwide recognition that a clean and efficient civil service is of the utmost importance to government administration, policy implementation and social harmony and stability, adding that civil servants should always keep pace with the rapid development of society. The social and economic development leads to changes and gives rise to new risks and challenges. Therefore, integrity building still has a long way to go.

At the Conference, representatives from the three places delivered speeches during the two plenary sessions entitled “Strategies for Strengthening Corruption Prevention Mechanisms” and “Challenges and Developments in Building a Probity Culture”. Guest speakers from Macao included Professor Xu Chang of the One Country Two Systems Research Center of the Macao



Leadership of the three anti-corruption institutions attending the Conference

Polytechnic Institute and Chow Seak Keong, Senior Investigation Officer of the Ombudsman Bureau of the CCAC. Representing the CCAC, the Deputy Commissioner Kuan Kun Hong delivered a keynote address entitled “System Building and Corruption Fighting” during the conference.

Kuan Kun Hong pointed out that the building of a probity culture can be realized mainly through six aspects, including: 1. establishing a specialized anti-corruption entity with high independency; 2. building an effective corruption prevention



criminal legislation and property declaration system; 3. setting up an effective and modern ombudsman system; 4. formulating policy that promotes zero-tolerance on bribery; 5. building a broad and effective international anti-corruption cooperation front-line; 6. promoting social integrity education extensively. He also pointed out that the system of checks and balances, sound system building, high administrative efficiency and good governance are all key elements in corruption prevention. Acts of bribery will become more and more concealed in the future. As corruption practices are complex and variable, a sound and innovated system is of utmost importance.

The speech of Professor Xu Chang was entitled "Steady Development of Macao's Public Administration in the Process of Integrity Building". He believed that Macao has made considerable progress in integrity building after the handover which is recognized by both the Central Government and Macao citizens. Nowadays, the low-level habits or practices of corruption of the frontline public servants in Macao have almost been eliminated completely. For a "society of acquaintances" like Macao, it is indeed not easy to establish the good culture of strictly abiding by law and ensuring legality through procedural justice. In summarizing the Macao's experience, he concluded that the core essence of integrity building is the sense of law-abidingness and placing priority on system while the source of power lies in public monitoring and the driving force of

public expectations. Nevertheless, the methods needs to be clearly regulated and easy to operate. Xu Chang pointed out the integrity building in Macao is facing two main challenges, including the elimination of negative, long-rooted practices and habits as well as the enhancement of the authoritativeness and the binding power of the correction mechanism of administrative illegalities of the CCAC.

Chow Seak Keong introduced to the participants the "System of Prevention of Conflict of Interests" within the Macao civil services system, including the principle of exclusiveness, recusal system, mechanism for handling advantages received, monitoring mechanism of civil administration information, system of incomes and properties declaration, as well as monitoring mechanism of the engagement in private business or practices after leaving the civil service, etc.

Over 200 guests, including staff of anti-corruption agencies, government department officials, experts and scholars from the Mainland, Hong Kong and Macao attended the meeting. The Public Administration and Civil Service Bureau also sent representatives including Choi Chi Long, Acting Head of Division of Ethics and Relations of Personnel, to attend the meeting with the delegation.

## Touring Exhibition on the Law

### *Prevention and Suppression of Bribery in the Private Sector*

To increase the understanding of the new law *Prevention and Suppression of Bribery in the Private Sector* of all walks of life in the territory, since mid-October 2011, the CCAC has teamed up with some associations to organize a touring exhibition and quiz sessions to promote the law. The said events are scheduled to take place in three phases at more than 50 indoor venues (e.g. associations, community centres and youth centres).

The first phase rounded off on 31<sup>st</sup> December 2011 and registered over 700 participants at the quiz sessions. The second phase, featuring both the exhibition and quizzes, is held between 3<sup>rd</sup> January and 4<sup>th</sup> March 2012 at 17 associations in the central part of the territory.





## CCAC Publicized Report on the Investigation of the Case of Grant of 10 Graveyards by Former Temporary Municipal Council of Macao

Following in-depth investigation and analysis, the CCAC has completed and published the *Report on the Investigation of the Case of Grant of 10 Graveyards by Former Temporary Municipal Council of Macao*, which is summarized as follows:

The CCAC, based on its investigation and analysis of the case about the alleged illegal grant of 10 pieces of perpetual graveyards, points out the procedural and practical defects in the relevant decisions made by the President of the former Temporary Municipal Council and inadequate awareness of law-observance of the Committee of Administration, Finance and Property under the Municipal Assembly of the former Temporary Municipal Council. The grant of the graveyards is suspected to be “tailor-made” for some particular people, while the supervisory body of municipal body was not able to ensure that the supervised strictly complied with the principle of legality. The report states that since the former Temporary Municipal Council has been revoked, those who made the decision have already left office, the limitation against the alleged power abuse has expired and the prescription for prosecution for disciplinary liability was extinct, there was no legal basis for continuing the follow-up currently. At the same time, since the

decision on the grant has been executed for almost 10 years, it is impossible to solve the problem by means of reinstatement. Nevertheless, the case serves as a warning for the Civic and Municipal Affairs Bureau (IACM)<sup>1</sup>, since it is the government department in charge of the matters about cemeteries and graveyards and there are many cases and situations yet to be clarified. Therefore, the relevant departments should adopt appropriate measure to follow up the matters in order to boost the efficiency and improve the procedures.

The Chief Executive, Dr. Chui Sai On, has given a positive response, stating that the report thoroughly analysed the problems in the aspects of law and administrative procedure, the competences and responsibilities of the former Temporary Municipal Council and its supervisory body as well as the relevant limitations applicable to the case. He has assigned the Secretary for Administration and Justice to follow up the case, conduct analysis on the relevant grant and render suggestion in order to improve the procedure of grant of graveyards.

<sup>1</sup> Under Law no. 17/2001 of 2001, on 1<sup>st</sup> January 2002, the IACM was established and the temporary municipal agency was revoked.

## ANTI-CORRUPTION INVESTIGATORS OF CCAC COMPLETE TRAINING SESSION

To further enhance the effectiveness of investigation and ensure adequate human resources for graft fighting and prevention in the private sector, the CCAC launched a recruitment drive for investigators in March 2011. After the strict screening process, 17 out of more than 2,000 candidates were selected to enter the 8<sup>th</sup> training session for investigators held by the CCAC. The arduous training programme covered knowledge of legislation and administrative procedure, investigation techniques, complaint handling skills, firearms training and team work. During this period the investigator trainees also went through professional training overseas.

After six months' learning and training, the trainees passed all the examinations and successfully completed the programme. The completion ceremony held on 23<sup>rd</sup> December 2011 signified that they officially became investigators of the Anti-Corruption Bureau and members of the CCAC.

The Commissioner Fong Man Chong, who officiated at the completion ceremony, encouraged the new investigators to devote themselves to corruption-fighting with a great sense of responsibility and never stop upgrading their knowledge and skills related to their work to push forward integrity building and uphold justice in Macao.





## **“Integrity and Professionalism – Key to Business Success”**

### **Conference for Small and Medium Enterprises in Guangdong, Hong Kong and Macao**



In order to equip cross-border small and medium enterprises (SMEs) with latest information about the business environment in the Pearl River Delta and the anti-corruption policies in Guangdong, Hong Kong and Macao, the CCAC of Macao, the Guangdong Provincial People's Procuratorate and the Independent Commission Against Corruption of Hong Kong had jointly organized the “Integrity and Professionalism – Key to Business Success” Conference for Small and Medium Enterprises in Guangdong, Hong Kong and Macao on 22<sup>nd</sup> September 2011 at the Multi-purpose Theatre of the New ICAC Building. The Commissioner, Fong Man Chong, led a delegation to attend the conference and delivered a speech. Mak Soi Kun, legislator and President of the Macau Construction Association, also led a group of members of the association to attend the conference and delivered a speech. Meanwhile, President of the Youth Committee of the Macao Chamber of Commerce, Bi Chi Kin, also attended the conference.

The conference featured three sections of discussions seminars, with topics including: “Integrity and Rule of Law — the anti-corruption application”, “Integrity and Professionalism — how to use integrity and professionalism to deal with business conflicts and enhance corporate governance” and “Integrity and Wealth — how can enterprises expand the business in the Pearl River Delta Region by persistence in law-abidingness and observance of integrity”. Deputy Director General of the Department of Taiwan, Hong Kong and Macao Affairs of the Ministry of Commerce, Sun Tong, delivered a speech entitled “The 12<sup>th</sup> Five-Year Plan for the National Economic and Social Development of China and the New Chapter, Opportunities and Challenges of the Development of SMEs in Pearl River Delta”.

The Commissioner, Fong Man Chong, briefly introduced in his speech the legislative background and the implementation of the law *Prevention and Suppression of Bribery in the Private Sector*, which entered into force on 1<sup>st</sup> March 2010, and summarized the efforts on investigation of corruption case and promotion of corruption prevention in the private sector. He pointed out that the cases of bribery in the private sector are different from that in the public sector. Therefore, special measures should be taken to ensure effective performance of duties as well as prevent other kinds of damage led by investigation to enterprises. He added that with the frequent exchanges of business activities among the three places, the cooperation and the exchange of intelligence among the anti-corruption agencies appear to be more and more important. In the future, the CCAC will continue to focus on combating corruption as well as promotion and education, to waken the senses of honesty, law-abidingness and fair competition of the industries.

Mak Soi Kun, in his speech entitled “Integrity Management and Business: some opinions on enhancement of business management standard in Macao to face opportunities”, asserted that many local SMEs were run in traditional style of family business, of which the management was not capable and the operation was not well regulated. Facing the economic boom over recent years, such old-fashioned operation had fallen behind. He used the construction industry as an example, saying that the traditional operation and management were disorganized and obscure, easily giving rise to irregular conduct and weakening the competitiveness against foreign companies. He suggested that on one hand, the industry had to carry out industrial transformation and upgrading through integrating trades and forming joint ventures with foreign companies so as to learn the advanced technology and management experience from the other party. On the other hand, the industry had to elevate the standard of management comprehensively. He stated that the construction industry needed to be institutionalized in all aspects and the strength of the enterprise depended on its own culture of corporate governance. The true principle of business running was for the industry to place integrity management as priority in both doing business and internal management.

The conference gathered around 200 representatives of SMEs from Guangdong, Hong Kong and Macao, who exchanged their experience in and opinions on how to develop business and make wealth by upholding integrity, professionalism and a sense of law-observance.



The Commissioner, Fong Man Chong, and representatives from business sector  
(4<sup>th</sup> from left: Legislator Mak Soi Kun, 2<sup>nd</sup> from right: Bi Chi Kin)



## Macao Returns to Board of Directors of Asian Ombudsman Association with Support from the Ministry of Supervision



Board Members and members of the Secretariat of AOA

The Commissioner Against Corruption, Fong Man Chong, attended the 12<sup>th</sup> Conference of the Asian Ombudsman Association held in Tokyo, Japan from 5<sup>th</sup> to 8<sup>th</sup> December 2011 and was elected a member of the Board of Directors of the Asian Ombudsman Association (AOA).

The international conference was entitled “Challenges for the Ombudsman in a Changing Socio-Economic Environment”, with sub-themes including the role of ombudsman, the right of citizens pertaining to access to information and the prospect of ombudsman development. Commissioner Zhang Huawei (Vice Ministerial Level) of the Ministry of Supervision of China led a delegation to attend the meeting that saw some 70 ombudsmen and representatives from 17 countries / regions.

During the conference, the Commissioner Fong Man Chong delivered a speech entitled “the Citizens’ Right to Access to Information under the Legal System of Macao”. He gave an introduction on how the Macao Government safeguards citizen’s right to access to information from three perspectives, namely, the legal framework, the role of judiciary and the role of ombudsman. According to Fong, Macao citizens had relatively easy and simple accesses to information held by the public departments. Among the complaints against public departments received by the CCAC, only a handful of them were relevant to infringement of the right to accesses to information. When it comes to the legal framework, while the *Basic Law* safeguards the fundamental rights and freedom of citizens, the provisions about the principle of legality, the principle of equality, the principle of moderation and the right to access to information under the *Code of Administrative Procedure* also protect the public’s right to obtain information from public departments. The city’s effective and independent judiciary also plays an important deterrent role. The *Code of Administrative Litigation* completes the principles in the *Code of Administrative Procedure*, makes officials who violate the *Code of Administrative Procedure* subject to legal

consequences. The ombudsman system also serves to prevent and deter such offences. In addition to its efforts in promoting the protection of rights, the CCAC may, whenever receiving the public’s complaints against public departments for the failure to address their requests within reasonable time frames, require relevant departments to make explanations about the delay. Normally the problems are solved promptly, otherwise the CCAC can render recommendations for the concerned departments.

During the conference, the election of new board members and handing-over ceremony also took place. With the all-out support of the Ministry of Supervision, Macao has resumed its position as a member of the Board of Directors of AOA. Members of the new Board of Directors include the President, Ombudsman of the Federal Ombudsman of Pakistan, the Vice President Ms. Panit Nitithanprapas, Ombudsman of Thailand, the Treasurer Ms. Kim Young Ran, Chairperson of the Anti-Corruption & Civil Rights Commission of South Korea, the Secretary Mr. Alan N. Lai, Ombudsman of Hong Kong. The other five members of the Board include Ms. Ma Wen, Minister of Supervision of China, Dr. Fong Man Chong, Commissioner Against Corruption of the Macao SAR, Dr. Tam Weng Wah, Director-General of the Public Complaints Bureau of Malaysia, Mr. Hideo Arai, Director-General of the Administrative Evaluation Bureau of the Ministry of Internal Affairs and Communications of Japan and Dr. Mostafa Pour Mohammadi, Head of the General Inspection Organization of Iran.

The Asian Ombudsman Association, established in 1996, is a non-governmental organization in Asia. It aims at promoting the role and importance of ombudsman, enhancing the effectiveness of ombudsman and strengthening exchanges and cooperation among regions. The Association is managed by a Board of nine directors, with members from 17 Asian countries and regions. Macao is one of the founding members of the Association.



The Commissioner, Fong Man Chong, and Commissioner (Vice Ministerial Level) of the Ministry of Supervision of China, Zhang Huawei



## 5<sup>th</sup> IAACA Annual Conference & General Meeting and 4<sup>th</sup> Conference of the States Parties to the UNCAC

The 5<sup>th</sup> Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities (IAACA) were held in Marrakech, Morocco from 22<sup>nd</sup> to 23<sup>rd</sup> October 2011. The CCAC dispatched a delegation to attend the conference and the Deputy Commissioner Kuan Kun Hong delivered a keynote address.

Cao Jianming, IAACA President and the Procurator General of the Supreme People's Procuratorate of China, addressed the opening ceremony, where he stated that asset recovery is the most important step in international cooperation in graft-fighting. He urged closer collaboration among countries in asset recovery, crackdown and prevention of corruption practices as well as the implementation of the *United Nations Convention against Corruption (UNCAC)* in order to push forward anti-graft initiatives.



Deputy Commissioner, Kuan Kun Hong, delivering a speech

Featuring the theme of Chapter V: Asset Recovery of the *UNCAC*, the conference saw nearly 400 representatives from corruption prevention, investigation and prosecuting agencies of 85 countries and regions and nine international organizations.

During his speech the Deputy Commissioner Kuan Kun Hong introduced the legal regime of the Macao SAR Government in respect to fighting corrupt asset transfer and money laundering, as well as claim and recovery of proceeds of corruption crimes. Kuan stressed that the Macao Government has been highlighting and sparing no effort in corruption fighting. The law enforcement departments strictly carry out their functions under the sound legal system and fulfil their international obligations by propelling international cooperation in asset recovery and mutual legal assistance with the support and authorization of the Central Government of China.

The 4<sup>th</sup> Session of the Conference of the States Parties to the *UNCAC* was held subsequently at the same place between 25<sup>th</sup> and 28<sup>th</sup> October, registering about 1,500 representatives from the states parties, signatories and some specialized agencies of the United Nations and non-governmental organizations. Liu Zhenmin, Assistant Foreign Minister and Cui Hairong, Deputy Director of the National Bureau of Corruption Prevention, who were the leader and the deputy leader of the Chinese delegation respectively, attended the conference and delivered speeches. The CCAC delegation was also present.

The *Marrakech Declaration* was announced at the conference. It urges the states parties to carry out judicial reform, formulate holistic strategies against corruption and various crimes, and share information and experiences on corruption fighting and prevention. The declaration highlights integrity education and encourages the private sector to positively engage in corruption prevention and establishment of transparent procurement systems as a way to eliminate factors inducing corruption practices. It also calls for more bilateral and multilateral cooperation among the states parties on technical support and combating corruption and various crimes.





## The Commissioner Attended

### IOI BOARD OF DIRECTORS MEETING

The Commissioner, Fong Man Chong, led a delegation to attend the annual meeting of the Board of Directors of the International Ombudsman Institute (IOI) in Zambia between 30<sup>th</sup> October and 3<sup>rd</sup> November. One of the important issues on the agenda is to revise the By-laws of the IOI. As a member of the Board of Directors, the Commissioner had raised detailed suggestions about the revision.

Hosted by the Commission for Investigation of Zambia, the meeting was attended by 30 participants from the IOI Board members and staffs of the six regions as well as representatives of the African Ombudsman Association. Apart from discussing the revision of the By-laws, the Board members also approved some regional training programmes, including a training course on investigation and complaint handling to be co-organized by the Ombudsman Office of Hong Kong and the CCAC in late May 2012, with an aim to further strengthen the exchange among members in the region and their professional knowledge.



IOI Board of Directors Meeting

Moreover, the next Board of Directors meeting will take place concurrently with the World Conference of the IOI, which is held once every four years, in Wellington, New Zealand. Ombudsmen and scholars from around the world will share their experience and expertise during the conference.

## The 16<sup>th</sup> Steering Group Meeting of ADB/OECD Anti-Corruption Initiative for Asia and the Pacific and the 7<sup>th</sup> Regional Anti-Corruption Conference

The 16<sup>th</sup> Steering Group Meeting of ADB/OECD Anti-Corruption Initiative for Asia and the Pacific was held in New Delhi, India on 27<sup>th</sup> September 2011 and was attended by representatives from 28 Asia-Pacific countries and regions, representatives of the Advisory Group as well as observer countries and organizations.

During the Meeting, senior officer, Luís Rôlo, delivered a speech on behalf of the CCAC to introduce the corruption prevention work and achievements of the CCAC in recent years and explain how the CCAC can enhance institutional construction and eradicate the corruption hotbeds through the implementation of the functions of ombudsman, so as to play an effective role in corruption prevention.



Representative of the CCAC, Luís Rôlo, delivering a speech

Afterwards, the 7<sup>th</sup> Regional Anti-Corruption Conference of ADB/OECD Anti-Corruption Initiative for Asia and the Pacific was held. The Conference, entitled “Building Multidisciplinary Frameworks to Combat Corruption”, featured such topics as “Strengthening Frameworks for International Co-operation in Multijurisdictional Corruption Investigations”, “Enhancing Frameworks for Public Procurement”, “What can the Private Sector Do to Prevent Corruption?” and “Citizens’ Role in Strengthening Governmental Anti-Corruption Frameworks”, where participants from various countries shared and exchanged experiences concerning issues of corruption fighting and prevention.

## ***New Generation Strides ahead on the Path of “Honesty” – A Variety Show Promoting the Culture of Probity***



Guests officiating at the opening ceremony

In order to enhance integrity education among teenagers and inculcate them with correct values, the CCAC held an outdoor event entitled New Generation Strides ahead on the Path of “Honesty” – Probity Education Variety Show for Teenagers on 12<sup>th</sup> November 2011 at the Park of Lao Hon Market, with the collaboration of the Youth Affairs Committee of Macau General Neighbourhood Unions Association, the Youth Committee of Macau Federation of Trade Unions, the Fu Lun Youth Association of Macau, the Macao New Chinese Youth Association and the General Association of Chinese Students of Macao.

Deputy Commissioner Against Corruption, Kuan Kun Hong, gave a speech at the event, where he stated that it was the first time for the CCAC to feature honesty and probity education to teenagers as a theme of its variety show. He reminded that the CCAC had been dedicated to integrity education to teenagers for years, including publishing textbooks, launching seminars, touring dramas and organizing idea-sharing sessions and co-organizing competitions for teenagers with other associations. The graft-buster was currently working further to pass the probity message to their parents and the general public. He added that through launching more promotional activities in the future, the CCAC wishes to draw the public's attention on the importance of integrity education for teenagers, build a probity culture and inspire the young people to live a meaningful life.



In addition to singing and dance performances, a short drama was also presented during the show. The educational drama served to accentuate the importance of integrity, honesty and fairness through everyday life scenarios. The event attracted the participation of large numbers of residents.

## **CCAC Presents Drama to Promote Honesty and Integrity to Secondary Students**

In order to instill the value of honesty and the spirit of law-abidingness into secondary students, in November and December 2011, the CCAC conducted a drama touring programme entitled “Act on Integrity” at local secondary schools.

The “Act on Integrity” programme targeted at third-year junior high to all senior high school students. The CCAC specially wrote a short play named *Honesty is King* and co-operated with the local drama group Little Mountain Arts Association in its production. Dishonest behaviours of teenagers' everyday scenarios are showcased in the drama so as to draw their attention to circumstances where corruption can be easily induced. The aim is to increase teenagers' alertness against the trap of committing unlawful acts. The students had actively participated in the discussion and shared their ideas.

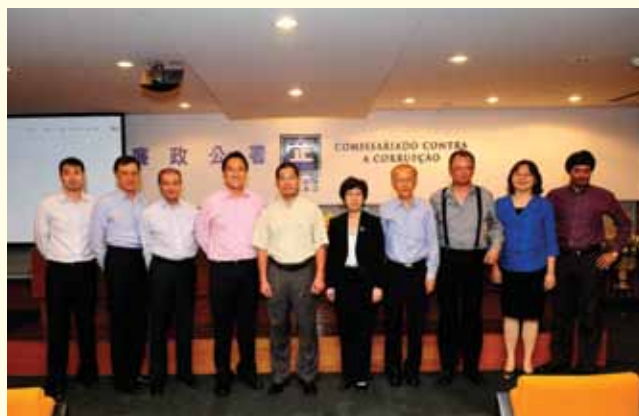
The programme was participated by secondary schools such as Sheng Kung Hui Choi Kou School Macau, the Affiliated School of the University of Macau, Macau Kung Luen Vocational & Technical Middle School, Kao Yip Middle School, Tong Sin Tong Secondary School, the Workers' Children High School and the Yuet Wah College. More than 1,500 students watched the drama and took part in the discussions. The programme has received positive response from the schools and students and will continue until the second semester of the school year 2011/2012.







Delegation of the Supreme People's Procuratorate visiting the CCAC



Chief Executive of Casino Regulatory Authority of Singapore, Lau Peet Meng (4<sup>th</sup> from left) leading a delegation to visit the CCAC



Member of the Shanghai Municipal Committee of the CPC and Secretary of the Commission for Disciplinary Inspection of Shanghai, Dong Junshu, who led a delegation to visit the CCAC, exchanging souvenir with the Commissioner Against Corruption, Fong Man Chong



Deputy Procurator-General of the Guangdong Provincial People's Procuratorate, Wang Xue Cheng, who met with the Commissioner Against Corruption, Fong Man Chong



Consul General of Canada in Hong Kong, Jean-Christian Brillant (3<sup>rd</sup> from left), visiting the CCAC



Chief of the Legal and Judicial Training Centre, Manuel Marcelino Escovar Trigo (5<sup>th</sup> from right, first row), visiting the CCAC with trainees of the 4<sup>th</sup> Judicial Officer Training Course, and the leadership of the CCAC



CCAC staff and members of Integrity Volunteer Team at the 28<sup>th</sup> Charity Walk for a Million



The CCAC participating in the 42<sup>nd</sup> Caritas Bazaar





## Some Thoughts about the Bill for Revision of *Organizational Law of the CCAC*

Fong Man Chong

### 1. FOREWORD

On 19<sup>th</sup> July 2011, I presented the bill for revision of the *Organizational Law of the CCAC* to the Legislative Assembly with the Deputy Commissioner, the Chief of Cabinet and the legal experts. Among the questions raised by legislators, the one which deserves the most thorough consideration is whether the ombudsman function should maintain the status quo, that is, remain as one of the duties of the CCAC? Or should it be the exclusive power possessed by another independent entity?

According to the documents of the Legislative Assembly, during the discussion of the law *Prevention and Suppression of Bribery in the Private Sector* in July 2009, some legislators did suggest separating the functions of graft-fighting and ombudsman. A report of the relevant committee recorded the followings:

“(…)

46. To establish the Ombudsman’s Office

In the process of discussion and analysis of the bill, the suggestion of establishing an Ombudsman’s Office independent from the CCAC was raised many times and this has been discussed previously. In fact, the situation of Hong Kong can be a reference, while some researches have pointed out the need to establish an ombudsman entity as a special entity independent from the judiciary aiming to safeguard citizens’ rights and interests and promote the protection.

In fact, there are a lot of basic rights being exercised in Macao SAR and it is an important and long-term mission to protect these rights. Therefore, it is necessary to establish an independent agency especially for this job instead of leaving it to another entity which does not especially exercise ombudsman function. Moreover, the ombudsman function of the CCAC is not well known by the public, perhaps, because of its relatively outstanding duty to fight corruption, which, in fact, is what the “Commission Against Corruption” really means and conforms to how the Basic Law defines its nature.

Let us review the following content. *‘The committee noticed that the CCAC is responsible for two different duties, which are to combat certain kinds of crimes and to protect citizens’ basic rights and interests. However, under certain circumstances, it is very difficult to strike a balance between the two, yet the Commission shall ensure that both of them are effectively fulfilled. Some members of the committee suggested that it is necessary to thoroughly consider how to protect citizens’ basic rights and interests when revising the law of the CCAC.’*

The committee suggested considering establishment of an Ombudsman’s Office independent from the CCAC and consequently revoking the competence of the CCAC in this area upon the establishment...”

Discussions should be relevant to the reality; solving real problems in a realistic way is the appropriate attitude. If we want to change the current regime, we have to answer some basic questions: Why? Is the current system inadequate to exert the ombudsman function? How to change? What will happen after the change is made? What kind of advantage and disadvantage will it bring?

First of all, let us look at the history, the current situation, the virtues and the shortcomings of the present regime.



## 2. BACKGROUND

When the Legislative Assembly of Macao discussed the anti-corruption bill in 1990, prior to the handover of Macao, the legislators were not able to reach a consensus and thus the bill was not passed. The then effective *Organizational Statute of Macao* stated that bills with the same contents shall not be raised and discussed in the same session. At that time, some legislators came up with a way to “evade” the provision, which was, to insert the function and system of ombudsman and the duty to protect citizens’ basic rights and interests in the bill, which was therefore considered a different one and was finally passed. Henceforth both the functions of graft-fighting and ombudsman are carried out by the same agency. This gradually developed into the present model of “two bureaus under one commission” – the CCAC consists of Anti-Corruption Bureau and Ombudsman Bureau and the Commissioner Against Corruption also serves as the Ombudsman.

## 3. FEATURES OF CURRENT REGIME

### (1) Ombudsman function to be carried out by independent entity is ensured in the constitutional and political system

The *Basic Law of Macao SAR* only mentions four agencies to be independent in carrying out their duties, including the courts, the Public Prosecutions Office, the CCAC and the Commission of Audit. By assigning the duty of supervision to the CCAC and ensuring its independence in the constitutional and political system is the internationally recognized method. The By-laws of the International Ombudsman Institute (IOI) stipulates that only the entities which perform their functions independently are allowed to join as members. Therefore, many countries and regions are still not eligible despite of request many times. The Commissioner Against Corruption of Macao SAR is a member of the Board of Directors of the IOI. In other words, it is considered one of the ombudsman agencies in the world which perform their functions independently.

### (2) Two Bureaus under one Commission with separate personnel and duties

The Commission Against Corruption (CCAC) consists of two bureaus: the Anti-Corruption Bureau and the Ombudsman Bureau, each of them functions in accordance with the established legal procedures and regulations and has its own professional staff. For example, the specialties of staff of the Anti-Corruption Bureau mainly focus on criminal law and capacity of operation, criminal investigation techniques, etc. On the contrary, the staff of the Ombudsman Bureau focuses on legal knowledge, especially in areas of public law (administrative law, constitutional law, fiscal law, civil services and public procurement system, legal system of public servants, etc). It is aimed to ensure independent operation of the two teams which play their respective roles. The benefit is that the staff can communicate and conduct exchanges among themselves. On occasions when no constitution of criminal offence is found but the existence of administrative illegalities after conducting the criminal preliminary screening, through the order of the superior, the case can be turned into an administrative complaint immediately and will be handed to the Ombudsman Bureau for investigation, and vice versa. This can help to save costs and enhance efficiency.

In fact, the Ombudsman Bureau plays the role of corruption prevention to a certain extent. First, in addition to handling administrative complaints, rectifying administrative illegalities and malpractices, the Ombudsman Bureau will also conduct researches and propose measures to improve the operation of public departments, make suggestions for explanation, revision or abolishment concerning the deficiencies of the existing legislations which helps to prevent and curb the occurrence of corrupt practices in a system level. Secondly, since the staff of the Ombudsman Bureau master a more extensive legal knowledge, and handle more practical cases in their daily work, resulting in a better understanding of the various circumstances happening in the public sector and in society, thus, they have the qualifications required to provide practical and effective suggestions of corruption prevention to the public sector and the private sector.

### (3) Complementation of Functions

Countries and regions of the world have mainly adopted the independent system or mixed system in the setting up of anti-corruption institution or monitoring organization. Macao is not the only place that put the anti-corruption and administrative supervision under the same roof. Countries such as South Korea and Iran etc., has also adopted the mixed system and let the same institution be responsible for the functions of administrative supervision and combating corruption. This can centralize human resources and be conducive to the overall coordination and deployment.



#### **(4) The principle of streamlining and high efficiency of institute personnel**

In a region with a population of only some five hundred thousands, indeed it is worth to think about and explore whether it is appropriate to set up another new institution in Macao. Lately, the community generally thinks that the civil administration structure has shown signs of swelling, the rapid increase of public servants has become a topic, is it appropriate to set up new institutions? To consider from the angles of streamlining the structure and high efficiency, and use the sharing of resources and complementation and mutual assistance of personnel as threshold, we believe that the current setting suits the actual situation of Macau more. Once it is chosen to separate, the first outcome resulted is the large increase of personnel, including administration, finance, promotion and education, legal support, etc., since the institution for the implementation of anti-corruption could no longer be responsible for the promotion work in the area of administrative supervision, and personnel of administrative supervision could not take charge of anti-corruption promotion work either, thus, dozens of staff have to be recruited to take charge of the promotion and education. As a result, the swelling of institution is consequential and to be direct, it will cause the waste of resources and hinder the effectiveness of its work.

#### **(5) Core of the problem: not a separate establishment of institutions in form, but an institutional cooperation**

If the separation is merely for the sake of separating, without an integrated system, then the thinking is indeed too simple. The community generally thinks that the recommendations of the Commission Against Corruption in area of ombudsman is not forceful enough and should be reinforced, or even to adopt some substantial measures and execute on behalf of the institutions receiving the recommendations. Under the regime of the rule of law, there are great difficulties in the implementation of this over-avant-grade thinking. Since the rule of law is built upon the mutual supervision and checks and balances between institutions, it is impossible for the law to vest one institution the power to handle all matters, otherwise it will head towards another totalitarian.

We believe that the key lies in the soundness and effectiveness of the system, such as accountability. The so-called accountability includes many areas: political accountability, accountability of civil liability, accountability of criminal responsibility, disciplinary accountability, etc. When the CCAC conducts investigation and issues report on the findings, or even renders recommendations, it is not compulsory for the institutions who received the recommendations to follow the proposed way given in the recommendation in dealing with the matters, the most important thing is to solve the problems raised in the recommendation. However, if the problems were not solved and adequate and sensible reasons are absent, the respective superior should start the accountability mechanisms, so as to truly play the role of supervision and implement the real meaning of the rule of law. Thus, we have been emphasizing two core subject matters: for a society to be clean and develop harmoniously, the interlocking of all systems, the supervision and checks and balances between the institutions should be of the first importance.

In case of separating the systems of clean governance and administrative supervision, but other regimes remain unchanged, the outcomes will inevitably be more detrimental than beneficial. Therefore, the focus at the current stage should be placed on the construction of various systems, rather than merely considering some kind of pure institutional division in form.

## **4. CONCLUSION**

Under the current social environment, there are still advantages and benefits in having the anti-corruption and ombudsman operating in the same Commission, especially in areas such as exchanges and interflow of information to an appropriate degree among staffs and the sharing of resources. How to further play the role of administrative supervision on the existing basis is the issue that is worth reflection, particularly in area of system construction. The ultimate goal is to establish a comprehensive system, so that decision-making power, executive power and monitoring power can on one hand restrict one another, but the other co-ordinate with one another. The result is the formation of a mechanism of power execution with reasonable structure, scientific disposition and effective supervision.





## Graft-Fighting Information on Internet

### The Commission Against Corruption Serving Four Different Roles

Recently, an article<sup>1</sup> written by an associate professor of the Southwest University of Political Science and Law about the functions of the Commission Against Corruption (CCAC) has been circulated on the internet. Below is part of the contents:

*“To build an efficient and transparent system is the foundation of eradication of corruption. In the process of combating bribery crimes and integrity promotion of Macao, the Commission Against Corruption mainly serves four roles:*

*First, it plays the role of “woodpecker”, searching everywhere and grubbing expressly for “pests” to eat. As stipulated in Article 3 of the Organizational Law of the CCAC, the CCAC aims at carrying out investigation and inquiry with regard to acts of corruption or fraud practiced by public servants. Being the “woodpecker”, the Anti-Corruption Bureau is responsible for the investigation of acts of corruption or fraud involving public servants or public departments. Upon receipts of complaints through reports from the citizens, transferred by other departments or media exposure, the Anti-Corruption Bureau will commence the investigation procedures. Certainly, when the CCAC detects bribery acts in accordance with its competence, the Anti-Corruption Bureau can also take initiative to commence the procedures and conduct investigation by the Investigation Department.*

*During the investigation, in order to track down the suspects, collect and secure evidence, the anti-corruption personnel may conduct searches, seizures and detention. The investigators can conduct searches if there are indications that certain people are carrying items that may be related to the crime or can be used as evidence. The investigators may also conduct searches when there are signs indicating that the aforementioned items or persons that should be under detention are in areas where public access is prohibited. The investigators may possess and carry weapons under the approval of the Commissioner. The “Woodpecker”, after investigation, if discloses acts of corruption or fraud practices by public servants, will transfer those “pests” to the Public Prosecutions Office for prosecutions.*

*In order to ensure the independency of investigative powers of the “Woodpecker”, on one hand, the CCAC can conduct independent investigation on acknowledged facts of crimes or illegalities which is free from the influences of anybody (including the reporter or the complainant) and need not to inform any entities concerning the investigation commenced. On the other hand, those who obstruct the work of the CCAC or do not fulfil the obligation to cooperate are punishable with the crime of disobedience or aggravated disobedience.*

*Second, the Ombudsman Bureau serves the role of “Health Doctor” and gives out corruption prevention prescriptions. As stipulated in Article 3 of the Organizational Law of the CCAC, taking actions to prevent acts of corruption and fraud is also one of the scopes of activities of the CCAC. In fact, it is not enough for the fighting of corruption lies on combating alone, the key is to strengthen the work of prevention. In other words, the Ombudsman Bureau of the CCAC serves the role of “Health Doctor”, responsible especially in taking the pulse and inquiring about the routine of work and the flow of handling affairs in government departments and public entities in order to diagnose the existence of hidden dangers that may lead to corruption and give out effective prescriptions that are beneficial in preventing and suppressing acts of administrative illegality, corruption and fraud practiced by public servants.*

*Third, the CCAC serves as the expert on integrity and makes recommendations in perfecting the respective legal system. As stipulated in Article 4 of the Organizational Law of the CCAC, with regard to any shortcomings it finds in any legal provisions, specially those which may affect rights, freedoms, safeguards or any legitimate interests of the individuals, the CCAC may formulate recommendations or suggestions concerning their interpretation, amendment or repeal, or make suggestions for new legislation. Where, however, the Legislative Assembly is the competent entity to legislate, it shall merely inform the Chief Executive in writing on its position.*

*Fourth, it serves as professional promotion organization to diffuse the knowledge of combating and*

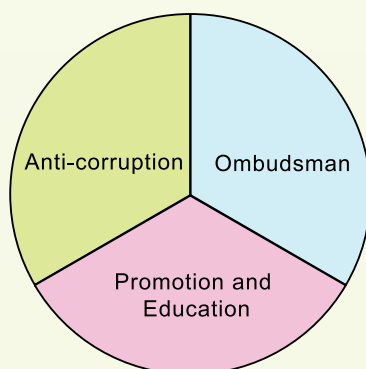
<sup>1</sup> Website: [http://news.china.com.cn/local/2011-07/05/content\\_22926700.htm](http://news.china.com.cn/local/2011-07/05/content_22926700.htm).



*preventing corruption. Since its establishment, the CCAC has always attached great importance to cultivating the anti-corruption awareness of society. In order to promote integrity awareness to the citizens, the Community Relations Department under the Cabinet of the Commissioner Against Corruption serves as the publicity team to be responsible for ensuring the ties and contacts between the CCAC and society and organizing activities regularly to educate the public the preventive measures on corruption and administrative illegality. For example, it will make use of methods such as TV broadcasting and the website, the newspapers and magazines, light box advertising, advertisement on buses etc., to introduce the functions and competence, the structure and operation as well as the achievements of the CCAC; through organizing seminars, conferences and distributions of various promotion items with corruption prevention information to promote integrity awareness and anti-corruption strategies. The newly published the CCAC Bulletin is available not only on the CCAC website, but free copies are also available in certain locations including the headquarters of the CCAC, the Macao Cultural Plaza, the Public Information Centre, the Reading Room of the Macao Chamber of Commerce and the library of the Diocesan Pastoral Youth Centre, etc.”*

In fact, this article has made a simple and vivid description in introducing the roles of the CCAC, leaving a deep impression on people.

According to our analysis and the current legal framework, the functions of the CCAC are described as the following chart:



Integration of these three functions maintains the CCAC's autonomy – in the aspects of personnel allocation, structure, facilities and operation. Moreover, they complement each other – in the aspects of research sharing, information exchange and adjustment of strategies, forming a strong bond of graft-fighting and integrity promotion in Macao SAR.

As the proverb goes, “one must sharpen one's tool to do a job well”. For a law-enforcement agency in a society of rule of law, it is critical that its organizational law and related regulations

are adequate to empower the agency so that it can fulfil its responsibilities and address social demand.

The deliberation by the Legislative Assembly on the bill for revision of the *Organizational Law of the CCAC of Macao SAR* has approached its finale. Our representatives and the responsible panel of the Legislative Assembly have reached a consensus on some important issues. The legislative procedure can be completed by the end of February so that the CCAC can better exert its functions in the course of system building.

In fact, the foreign counterparts, after we introduced them the CCAC's duties during their visit, praised Macao for the style of operation. Especially when taken into account the size of the city, its population, politics, administrative system and history, the features and advantages of the anti-corruption system in Macao are reflected in its simple structure, capable personnel, convenience of information exchange and close connection to worldwide anti-corruption trend.

Due to constant improvement of staff's law-enforcement standard and adjustment of operation style, we believe that the CCAC will better exert its functions in various aspects, especially modernization of administrative regime and system building. By fully employing the information obtained in the process of complaint handling and analysis on shortcomings and loopholes of the current regime, it can gradually prevent maladministration and malpractice, giving a positive effect on enhancement of social development.

Regarding the establishment of the CCAC, the following two legal provisions should be highlighted:

(1) Article 59 of the *Basic Law of the Macao Special Administrative Region of the People's Republic of China* states,

*“A Commission against Corruption shall be established in the Macao Special Administrative Region. It shall function independently and its Commissioner shall be accountable to the Chief Executive.”*

(2) Article 6 of the *United Nations Convention against Corruption*, which was published on the *Official Gazette of Macao SAR* on 21<sup>st</sup> February 2006, states:

*“Preventive anti-corruption body or bodies*

*1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:*

*(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing*



and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

**2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence.** *The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.*

*3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption."*

These legal foundations have defined the special position of the CCAC of Macao.

Recently, some legislators and legal experts requested the CCAC to bring up more views on the bills related to citizen's basic rights and interests and suggestions about improvement measures and, especially, execute Paragraph 9 of Article 4 of the Organizational Law of the CCAC of Macao SAR, which states,

*"The Commission Against Corruption is entitled to:*

*(...)*

*9) with regard to any shortcomings it finds in any legal provisions, specially those which may affect rights, freedoms, safeguards or any legitimate interests of the individuals, formulate recommendations or suggestions concerning their interpretation, amendment or repeal, or make suggestions for new legislation. Where, however, the Legislative Assembly is the competent entity to legislate, it shall merely inform the Chief Executive in writing on its position;*

*(...)"*

Regarding how to further exert the effect of this paragraph and perfect the mechanisms mentioned in it, some legislators and legal experts has suggested that in certain cases, especially the cases where the Legislative Assembly is discussing some bills which involve citizens' rights and interests or other important issues, if the CCAC possesses useful information or has already conducted related research, it should consider providing the information to the competent authorities in order to perfect the relevant systems as well as enhance the overall standard of legislation and law enforcement in Macao.

This is a very foresighted and pragmatic viewpoint. However, how to adopt it to practical works and how to fully exert its virtues and avoid its negative effect depend on the consensus reached by different sides, especially the competent entities. The CCAC will, subjected to objective conditions, fully cooperate with them in order to play its role in an effective way.

Recently, the CCAC has perceived many demands for strengthening its supervision especially in the areas that involve citizens' daily life and basic rights and interests. The CCAC always stresses the importance of supervision beforehand and afterward, while how to carry out supervision to the proper extent at the right time is also essential – the lesson to be learnt by us.

In fact, regarding the decision on adopting certain administrative policies, supervisory agencies normally do not intervene in the process, because it is necessary to respect the decision making power possessed by administrative authorities. However, when there is an improper measure led by a wrong or inappropriate decision, should the supervisory agency intervene in it? Although there is no absolute answer, the suggestions raised by supervisory agencies according to their analysis should be respected, because the crux is to ensure the legality and appropriateness of policies and decisions on administrative affairs and effectively resolve conflicts in the society.

Systems, regardless of their natures, are effective only when they keep pace with social development and satisfy citizens' rational demands. Policies, ways of thinking, management styles and legal means also have to keep pace with the time and trend. The existence of supervisory agencies is not to replace any of the public departments but to enhance the development of the regime and administrative efficiency. The aim is to uplift harmonious development of the society.

