

立法會
Legislative Council

LC Paper No. CMI/46/00-01

Ref: CB(3)/C/2 (00-04)

Committee on Members' Interests

**Minutes of the fourth meeting
held on Tuesday 3 April 2001 at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Hon SIN Chung-kai (Deputy Chairman)
Hon Cyd HO Sau-lan
Hon NG Leung-sing
Hon Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon YEUNG Yiu-chung

Non-Committee members

Hon Andrew WONG Wang-fat, JP
Hon Emily LAU Wai-hing, JP

Member absent : Hon David CHU Yu-lin (Chairman)

Clerk in attendance : Mrs Betty LEUNG
Chief Assistant Secretary (3)1

Staff in attendance : Mr LAW Kam-sang, JP
Deputy Secretary General

Mr Ray CHAN
Assistant Secretary General 3

Mr LEE Yu-sung
Senior Assistant Legal Adviser

Mr Arthur LEUNG

**I. Confirmation of the Minutes of the last meeting held on
6 February 2001**
(LC Paper No. CMI/36/00-01)

As the Chairman was out of town, Hon SIN Chung-kai, the Deputy Chairman of the Committee on Members' Interests (CMI), chaired the meeting.

2. The minutes of the last meeting were confirmed without amendments.

**II. Meeting with non-Committee Members regarding the proposal to
adjust downwards the minimum value of registrable one-off
material benefits received by LegCo Members**
(LC Papers No. CMI/23/00-01, CMI/24/00-01, CMI/33/00-01 &
CMI/39/00-01)

Registration of financial sponsorships and gifts

3. The Deputy Chairman invited Mr Andrew WONG and Ms Emily LAU, who were not members of CMI, to express their views on the minimum value of registrable material benefits.

4. Mr Andrew WONG said that the meeting should first deal with the question of whether and how gifts received by Members should be registered before considering the minimum value to be set for the registrable material benefits. He pointed out that gifts were registered separately under the registration system of the United Kingdom (UK) parliament, whereas for the Legislative Council (LegCo) of Hong Kong, gifts were regarded as "financial sponsorships", which should be registered on page 4 of the Registration Form on Members' Interests (Registration Form). Under Rule 83(5)(d)(i) and (ii) of the Rules of Procedure (RoP), donations received by Members as candidates of LegCo election and financial sponsorships received by a Member in such capacity were registrable interests. He considered that the purpose of these two subrules was to let the public judge whether a Member's conduct might have been controlled or unduly influenced by their sponsors, and in such light it might be more desirable to set the minimum registrable value of such financial sponsorship on the high side.

5. Mr Andrew WONG continued to say that he considered that Rule 83(5)(d)(ii) of RoP should cover only those sponsorships to a Member in

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relation to his or her work as a Member, and not gifts received by Members in other capacities. If CMI decided that gifts were registrable, they should be registered in a section distinct from “financial sponsorships” on the Registration Form, and a lower minimum registrable value could be set. Mrs Sophie LEUNG echoed the view and said that it was not explicitly stated in Rule 83(5)(d)(ii) that gifts were one type of financial sponsorships, although that could be easily deduced. Senior Assistant Legal Adviser (SALA) advised that, in determining whether a gift received was registrable as a financial sponsorship under Rule 83(5)(d)(ii) of RoP, the relevant question for the Member was whether it was received as a Member of the Council.

6. The clerk reported that the former CMI had discussed this point in 1993 and decided that gifts were to be categorised under “financial sponsorships”. Mr Andrew WONG invited members to reconsider whether such a decision should still stand. The Deputy Chairman clarified that Mr YEUNG Yiu-chung had asked whether gifts were categorised under “financial sponsorships” at the first meeting of this session, and the CMI had then concluded that gifts were material benefits registrable under the category of “financial sponsorships”. Ms Cyd HO said that the registration system might be abused if financial sponsorships and gifts were registered in separate sections for which different minimum values had been set, as Members could choose to regard an interest received as a gift or as a financial sponsorship whichever was to his or her advantage. She said that she was not in favour of the registration of gifts in a separate section since gifts were already registrable as financial sponsorships under Rule 83(5)(d)(ii) of RoP. The Deputy Chairman added that as the Registration Form was designed to correspond with the registration requirements set out in Rule 83(5) of RoP, registration of gifts in a separate section was not in line with such an arrangement. Other members of the Committee agreed with their views.

The applicability of “material benefits” in the Registration Form

7. Referring to the comments made by Hon Margaret NG at the House Committee meeting on 2 March 2001, the Deputy Chairman said that as the term “material benefit” was defined on page 1 of the Registration Form, which dealt with registration of directorships, it might give Members an impression, when completing the Registration Form, that only those material benefits related to directorships were registrable. SALA explained that when Members register their interests, they would first decide which page(s) of the Registration Form was (were) relevant. Although the term “material benefits” was defined only once on page 1 of the Registration Form, cross-reference to it was made at the footnotes of pages 2, 4 and 6 of the Registration Form.

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8. Mr Andrew WONG said that as no reference to the term “material benefit” was made in Rule 83(5)(a) and (b), which respectively dealt with remunerated directorships and remunerated employment, such interests should be registrable if received, regardless of whether they were in cash or in kind, and regardless of the value. Therefore, the setting of a minimum value of registrable material benefits for remunerated directorships and remunerated employment was not in line with the RoP. Ms Emily LAU concurred and said that greater transparency would be achieved if Members were required to provide more details on directorships, such as the amount of remuneration received. SALA clarified that, as stated in footnote (a) on page 1 of the Registration Form, “remunerated directorships” was defined as including all directorships for which a fee, honorarium, allowance or other material benefit was payable. “Material benefit” was in turn defined in footnote (b) as either (i) interests received from a single source in the course of one year where the total value of such interests exceeds 5% of the annual salary* of a Member of the Council (*excluding the general expenses allowance which covers expenses incurred by a Member in his work); or (ii) one-off material benefits exceeding \$10,000 in value. The Deputy Chairman said that a Member was in fact required to register directorships which rewarded him with cash, no matter how small the amount was. However, if a Member received only non-cash benefits from a directorship, he would be required to register it only if the benefit exceeded a minimum value. In reply to Ms Cyd HO’s enquiry, the clerk said that the former CMI had decided unanimously in June 1997 to move the definition of “material benefit” from page 4 to page 1 of the Registration Form.

9. Ms Emily LAU enquired if the Registration Form could be amended so as to remove the minimum value set for the “material benefits” on page 1. SALA replied that if the same term “material benefits” was used on various pages of the Registration Form, it would be better for the term to have the same meaning throughout. Mr Andrew WONG proposed that to overcome this, the term “material benefits” on pages 1 and 2 of the Registration Form might be replaced by “other rewards”, which could then refer to all benefits received in kind which had a cash value. Ms Emily LAU and Mrs Sophie LEUNG said that LegCo Members should be fully consulted if CMI was to recommend any amendments to the Registration Form.

Minimum value of registrable material benefits

10. The Deputy Chairman said that CMI’s earlier proposal to lower the minimum value of registrable material benefits to \$2,000 had been made after

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considering the practice in overseas legislatures. Ms Emily LAU said she supported the proposal. She said that in determining the appropriate value, reference could be drawn from the value of gifts that Secretariat staff members were allowed to receive. In reply to Ms Emily LAU's enquiry, DSG said that staff members might not accept any gift or other advantage in their official capacity. Any gifts presented on social and ceremonial occasions which an officer attended in his or her official capacity were regarded as gifts to the Secretariat. If the gift was of low value or was personally inscribed to a particular officer, the Secretary General might give approval for the officer concerned to retain the gift. Otherwise such gifts might be used as lucky draw prizes at social functions of the Secretariat.

11. In reply to Ms Emily LAU's enquiry, DSG said that it had been decided at a CMI meeting in 1993 that the Member receiving a material benefit should make an estimation of its value himself/herself in order to decide whether to register such an interest.

III. Internal discussion on the minimum value of registrable one-off material benefits and related matters

12. In reply to Mr NG Leung-sing's enquiry, the clerk said that there had been only two cases of registration of gifts by Members over the past three years. Mrs Sophie LEUNG proposed that all LegCo Members be invited to indicate their preference for the four different minimum values of registrable material benefits as proposed by Members i.e. \$10,000, \$5,000, \$3,000 and \$2,000. The Deputy Chairman proposed and the meeting agreed that the overall preference of Members be determined by the preferential elimination method.

the clerk

IV. Draft paper on the interpretation of the phrase of "a sector thereof" in Rule 84(1) of the Rules of Procedure (LC Paper No. CMI/31/00-01)

13. The item was deferred to the next meeting.

V. Amendments to Rule 84 of the Rules of Procedure: the way forward

14. The item was deferred to the next meeting.

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IV. Date of next meeting

15. The clerk would consult members regarding the date of the next meeting.

16. The meeting ended at 12:10 p.m.

Legislative Council Secretariat

15 May 2001