

立法會

Legislative Council

LC Paper No. CMI/39/00-01

Ref: CB(3)/C/1(III)

Paper for the Committee on Members' Interests' meeting on 3 April 2001

Summary of Legislative Council Members' views on the proposal to adjust downwards the minimum value of registrable one-off material benefits received by Legislative Council Members

Purpose

This paper summarizes the views expressed by Legislative Council (LegCo) Members on the Committee on Members' Interests' (the Committee's) earlier proposal to adjust downwards the minimum value of registrable one-off material benefits received by Members.

Background

2. At its meetings on 7 November 2000, 12 December 2000 and 6 February 2001, the Committee discussed whether the minimum value of registrable one-off material benefits, set at \$10,000, was appropriate (Extracts from the Minutes of the three meetings are at **Appendices I, II and III** respectively). After considering how the minimum value was set in the past, the current requirements adopted by some overseas legislatures, the incidence of Members receiving material benefits of value close to \$10,000 and other factors, the Committee recommended adjusting the amount downwards to \$2,000.

3. The proposal, as set out in LC Paper No. CMI/33/00-01, was discussed by the House Committee at its meeting on 2 March 2001. After some preliminary discussions, it was suggested that the Committee invite other Members to participate in its discussion on the matter (Extract from the Minutes of the House Committee meeting on 2 March 2001 is at **Appendix IV**). On behalf of the Committee, the Chairman invited, vide a circular (LC Paper No. CMI/35/00-01) issued on 14 March 2001, all LegCo Members to send in their views and to attend the Committee's meeting scheduled for 3 April 2001.

Attendance at the meeting and views of LegCo Members

4. Responses as of 28 March 2001 from LegCo Members who have expressed their views on the minimum value or indicated that they will attend the meeting are attached at **Appendix V** and summarized below:

	Member	Views on the minimum value			Attend the meeting	Other views
		Maintain status quo at \$10,000	Reduce to \$5,000	Reduce to \$2,000		
1.	Hon Eric LI *	✓			✗	Appendix V(i)
2.	Hon Abraham SHEK *	✓			✗	
3.	Hon Henry WU *	✓			✗	Appendix V(iii)
4.	Hon David CHU		✓			
5.	Hon HUI Cheung-ching *		✓		✗	
6.	Hon Ambrose LAU *		✓		✗	
7.	Hon TANG Siu-tong *		✓			
8.	Hon Emily LAU *			✓	✓	Appendix V(viii)
9.	Hon Cyd HO					
10.	Hon NG Leung-sing				✓	
11.	Hon Bernard CHAN				✓	
12.	Hon Mrs Sophie LEUNG				✓	
13.	Hon SIN Chung-kai				✓	
14.	Hon Andrew WONG *				✓ #	
15.	Hon YEUNG Yiu-chung				✓	

* Non-Committee Member

Informed the clerk of his attendance orally

Advice sought

5. Members are invited to note the views expressed by LegCo Members as set out in the reply slips at Appendix V and possibly at the meeting, and to decide the way forward.

Legislative Council Secretariat Council Business Division 3

28 March 2001

**Extract from the Minutes of the first meeting
of the Committee on Members' Interests held on 7 November 2000**

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Members present : Hon David CHU Yu-lin (Chairman)
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

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II. Review of the registration system for declaration of interests by Members
(Appendices 3-7 of the Agenda)

Scope of registrable interests

3. The Chairman invited members to give views on and suggestions for amendments to the present registration system in respect of Members' pecuniary interests (registration system). Mrs Sophie LEUNG suggested and members agreed to examine first the scope of the registrable interests as well as the monitoring mechanism of the registration system.

4. Noting that Members were required, as stipulated in the notes to the Registration Form on Members' Interests (Registration Form), to register one-off material benefits of a value exceeding \$10,000, under the categories of (a) directorship; (b) remunerated employment offices, etc; (c) financial sponsorships; and (d) benefits received from outside Hong Kong, the Deputy Chairman enquired about the highest value of the gifts that public servants were allowed to accept under the Prevention of Bribery Ordinance (PBO) (Cap. 201). The Legal Adviser informed the meeting that under section 3 of PBO, the Chief Executive might give general or special permissions for public servants to solicit or accept advantages. Under the Acceptance of Advantages (Governor's Permission) Notice 1992, a public servant might accept a gift from a close personal friend so long as the value of the gift did not exceed \$2,000 on any one occasion. While reference might be made to such an upper limit, the system for registering Members' interests was not designed and implemented for the prevention of bribery. The main purpose of establishing the Register was to

provide information of any pecuniary interests or other material benefits received by a Member which might reasonably be conceived by others as having an influence on his or her actions, speeches or votes in the Legislative Council (LegCo), or actions taken in his or her capacity as a Member. Given that the term "material benefits" had not been defined in the Rules of Procedure (RoP) and the value of \$10,000 for registrable material benefits set out in the notes to the Registration Form was only a guide, the registration system relied on the personal judgement of Members to decide whether or not to register a particular pecuniary interest received; it did not stop a Member from registering a benefit of a value less than \$10,000.

5. The Deputy Chairman asked if information was available on the minimum values set for registrable gifts by other legislatures. The clerk informed the meeting that in respect of the House of Commons of the United Kingdom (UK) Parliament, gifts with a value less than £125 were exempt from registration and other benefits were exempt if they had a value of less than £225.

6. Mr YEUNG Yiu-chung wished to clarify if gifts were classified as one type of material benefits. The Legal Adviser replied that this was the case. The Deputy Chairman said he was in favour of reviewing the existing value of \$10,000 set for registrable gifts. The Chairman proposed and the meeting agreed to examine it at the next meeting.

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**Extract from the Minutes of the Second meeting
of the Committee on Members' Interests held on 12 December 2000**

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Members present : Hon David CHU Yu-lin (Chairman)
Hon SIN Chung-kai (Deputy Chairman)
Hon NG Leung-sing
Hon Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon YEUNG Yiu-chung

Member absent : Hon Cyd HO Sau-lan

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clerk 17. The Deputy Chairman said he was in favour of reviewing the minimum value of \$10,000 currently set for registrable material benefits. Mr NG Leung-sing enquired about the time when the value was first set at such a level. The clerk undertook to provide the information at the next meeting. The meeting agreed to review at the next meeting the minimum value for registrable material benefits.

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**Extract from the Minutes of the Third meeting
of the Committee on Members' Interests held on 6 February 2001**

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Members present : Hon David CHU Yu-lin (Chairman)
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

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III. Review of the minimum value set for registrable material benefits for LegCo Members

(LC Paper No. CMI/23/00-01 and LC Paper No. CMI/24/00-01)

15. The meeting noted LC Papers No. CMI/23/00-01 and CMI/24/00-01 and in particular the value limits of the gifts the receipt of which should be disclosed by Members of the legislatures in the United Kingdom and the United States of America. The Deputy Chairman and Mrs Sophie LEUNG pointed out that a gift with a value of about \$10,000 was rarely received by Members and it was necessary to consider lowering the minimum value. The Chairman agreed and said that pitching the minimum value at \$10,000 might give the public the wrong impression that Members often received gifts with values close to \$10,000.

16. Mrs Sophie LEUNG pointed out that on ceremonial occasions, such as opening or anniversary ceremonies, speech days etc., souvenirs presented to Members of the Council and other guests of honour officiating did not normally exceed \$2,000 in value. Mrs Sophie LEUNG then proposed that the minimum value should be set at \$2,000. The Deputy Chairman said he would suggest \$3,000 in order to save Members the inconvenience of having to register frequently the receipt of such material benefits. Members present then decided by a show of five hands to one that the minimum value for registrable material benefits should be revised downwards to \$2,000, and that individual members should consult Members of their political groupings about this recommendation, and should provide the clerk with comments, if any, within one week. Subject to any views received, the House Committee should be informed of the Committee's recommendation.

All
members,
clerk

(Post-meeting note: no adverse comments were received by the clerk by the end of one week i.e. 13 February 2001.)

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**Extract from Minutes of House Committee Meeting
of the Legislative Council held on 2 March 2001**

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VI. Report of Committee on Members' Interests - Downward adjustment of the minimum value of registrable one-off material benefits received by LegCo Members

(LC Paper No. CMI/33/00-01)

41. Referring to the paper, Mr David CHU, Chairman of the Committee on Members' Interests, said that the Committee had discussed at three separate meetings whether the minimum value of registrable one-off material benefits, set at \$10,000 in 1993, was appropriate.

42. Mr David CHU said that the Committee had noted that the amount of \$10,000 was not based on any specific objective standards. The Committee had made reference to the practice in the House of Commons of the United Kingdom and the House of Representatives of the United States of America, which set the value of registrable material benefit at £225 and US\$ 260 respectively. Taking these factors into consideration, the Committee considered that the minimum value of registrable one-off material benefit received by LegCo Members had been pitched at too high a level. The Committee recommended adjusting the amount downwards to \$2,000 to enhance transparency of Members' registrable interests but without causing too much inconvenience for Members.

43. Mr David CHU added that a few Members had expressed views about the Committee's recommendation in the past two days. He proposed that a decision on the recommendation in paragraph 6 of the paper be deferred in order that the Committee could further consult Members and discuss their views.

44. Mr LAW Chi-kwong said that if the minimum value of registrable one-off material benefits was to be adjusted downwards from \$10,000 to \$2,000, the Committee should provide clear guidelines on whether a Member was expected to ascertain the value of the gift or benefit by asking the donor, or to make his/her own valuation or assessment. He added that it was difficult to tell the value of certain gifts such as a bottle of wine.

45. Mr Eric LI said that when the amount of \$10,000 was set in 1993, the previous Committee on Members' Interests had considered factors such as whether the value of the benefit would affect the judgment or decision of a Member, the extent of inconvenience posed to Members in reporting such benefits, and gifts received on special occasions such as weddings and birthdays. He added that the previous Committee had tried to strike a balance between these factors and transparency of the system.

46. Miss Margaret NG commented that the paper did not provide all necessary information and it gave the impression that the proposed downward

adjustment would only apply to material benefits received in connection with directorships. Mr Martin LEE shared Miss NG's views. Miss NG further asked what document(s) should be read together with the paper. Chief Assistant Secretary (3)1 clarified that the proposed downward adjustment also applied to "material benefit" referred to in categories 2, 4 and 6 of the Registration Form on Members' Interests. Miss Margaret NG pointed out that the paper should then be read together with the Registration Form, a complete set of which should have been provided to Members.

47. Mr CHAN Kam-lam said that the Committee should also listen to the views of other Members who were not members of the Committee. He suggested that the Committee should consider inviting other Members to participate in its discussion on the matter or convene a special meeting for the purpose. Mr Andrew WONG expressed support for Mr CHAN's suggestion. Mr WONG added that he had a number of queries on the Committee's recommendation. He considered that it was important to make clear whether "material benefit" also included financial sponsorship and other items, in addition to gifts.

48. The Chairman said that Members could forward their views in writing to the Committee. Members could also attend the consultation meeting which the Committee would call to let Members put forth their views on the matter. She added that the House Committee would defer a decision on the paper as requested by the Chairman of the Committee on Members' Interests, pending the Committee's further deliberation. Members agreed.

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