

立法會
Legislative Council

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seen by the Administration)

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**Establishment Subcommittee of the Finance Committee
of the Legislative Council**

**Minutes of the 3rd meeting
held at the Chamber of the Legislative Council Building
on Wednesday, 22 November 2000, at 9:00 am**

Members present:

Hon CHAN Kwok-keung (Chairman)
Hon NG Leung-sing (Deputy Chairman)
Hon HUI Cheung-ching
Hon Bernard CHAN
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok

Members absent:

Hon James TIEN Pei-chun, JP
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon YEUNG Yiu-chung
Hon SZETO Wah
Hon LEUNG Fu-wah, MH, JP

Public officers attending:

Mr Stanley YING, JP
Mr D W PESCOD, JP
Mr K K LAM

Deputy Secretary for the Treasury
Deputy Secretary for the Civil Service
Principal Executive Officer (General),
Finance Bureau

Mr Alan CHU
Mr Ambrose LEE, IDSM, JP
Mr T P WONG, IDSM
Ms Helen CHAN

Principal Assistant Secretary for Security
Director of Immigration
Deputy Director of Immigration
Assistant Principal Immigration Officer,
Immigration Department

Clerk in attendance:

Miss Polly YEUNG

Chief Assistant Secretary (1)3

Staff in attendance:

Ms Pauline NG
Ms Alice AU

Assistant Secretary General 1
Senior Assistant Secretary (1)5

EC(2000-01)17

Proposed retention of one supernumerary post of Deputy Director of Immigration (GDS(C)3) in the Immigration Department for a period of six months with effect from 1 January 2001 to lead and plan all necessary preparatory work for the introduction of a new generation of identity card and a new supporting computer system

Whilst stating support for the proposal to retain the Deputy Director (Special Assignment) (DD((SA)) post to oversee further research on available options for the smart identity card (ID card) project, Mr NG Leung-sing sought elaboration on DD(SA)'s work in relation to "keeping abreast of developments on the smart card technology and other countries' experience in using smart cards". In reply, the Deputy Director of Immigration (DD of Imm) said that given the rapid pace of technological advancement, this area of work was particularly important so as to ensure that the technology proposed to be adopted was the safest and best-suited for the purpose. Useful information had been gathered from a variety of sources such as from extensive researches, overseas visits to European and South-east Asian countries, as well as demonstrations presented by information technology (IT) service providers. Responding to Mr NG's suggestion that it might be helpful if relevant findings could be shared with the IT industry and academics, DD of Imm assured members that the Government adopted an open attitude on the matter.

2. Referring to his experience with the smart card issued by the Singaporean authority for automated immigration clearance, Mr Bernard CHAN agreed that more in-depth study was required before a final decision on the way forward could be made as the use of technology might not be as efficient as anticipated. As such, he supported the retention of the DD(SA) post.

3. Miss Emily LAU however queried the usefulness of overseas experience given that smart ID cards were only adopted in very few countries. In this connection, DD of Imm clarified that while reference would be made to the experience of other countries such as Finland, Malaysia and Brunei in respect of their implementation of smart ID cards for a variety of purposes including driving licence, digital certificate, immigration clearance and e-purse, the focus of the department's work was on the application of smart card technology, such as for immigration clearance. He further explained that smart card technology was in fact widely adopted in many countries for purposes other than immigration functions. Smart ID card was only adopted in a few countries because unlike the case in Hong Kong, many countries would use the citizen's driving licence or social security card as his identity document. This should not be taken to mean that a smart ID card was technically undesirable or inappropriate for Hong Kong.

4. Whilst expressing support for the proposal, Mr Howard YOUNG raised concern about the Government's future plan for the proposed supernumerary post as the feasibility study on the ID card had been completed in June 2000 and the recommendations of the project steering committee chaired by him had also been submitted to the Administration for consideration. As continuity might be undermined by successive short-term extensions of the post, he asked whether the Government had envisaged that a clear policy decision on whether and how to proceed with the ID card project would have been made during the six-month tenure of the proposed DD(SA) post.

5. In reply, the Director of Immigration (D of Imm) explained that notwithstanding the completion of certain tasks, a more in-depth assessment on the proposed value-added applications would be required before a clear decision could be made and DD(SA) would be heavily involved in the on-going exercise to solicit public views on the proposed new ID card, particularly about its multiple-application capacity and the personal data to be stored in the card. As for the decision to extend the post for six months only, it was made on the assumption that funding approval for the ID card project would be submitted to the Finance Committee (FC) in late 2000/early 2001 and if funding was approved, another proposal would be submitted to this Subcommittee around March/April 2001 for the creation of a project-based DD post to replace the supernumerary DD(SA) post for implementation of the project. Hence, if the project-based DD post was created before 30 June 2001, the supernumerary DD(SA) post would lapse earlier.

6. In response to Miss Emily LAU's questions about the completion date of the in-depth assessment of public views and whether the findings would be disclosed, DD of Imm said that the results of public consultation would be reported to the Legislative Council (LegCo) in due course. So far, briefings had been conducted for nine District Councils and all of them had given support for the multi-application smart ID card scheme. Moreover, three exhibitions had been held and attended by more than 9 000 visitors, most of whom had expressed interest in the design and choice of photo on the card. Miss Emily LAU however cautioned that overwhelming interest in the design aspect of the smart ID card should not be taken as a lack of concern on privacy and security issues. To gauge community views, Miss LAU added that she would hold a public forum on 1 December 2000. Members also noted that she would move a motion debate on the subject at the LegCo meeting on 6 December 2000.

7. Referring to previous discussions held by the Security Panel on the policy issues of the ID card project, Miss LAU recalled that some members had indicated that they would only support the ID card project if all concerns about data privacy and security as well as fair information practice had been addressed. She sought the Administration's assurance that these issues would be satisfactorily resolved before the ID card project could be taken forward. In this connection, Miss LAU enquired about details of the four Privacy Impact Assessments (PIA) conducted by external consultants.

8. In response, DD of Imm advised that the principal objectives of PIAs were to assess the actual and potential effects of an activity or proposal on individual privacy and to explore ways in which any adverse effects would be mitigated. A total of four PIAs would be conducted at different stages of the project from the planning stage to the post implementation stage. The first PIA was conducted with a view to identifying the necessary safeguards in the new ID card system to be specified in the tender documents. The completed study had included a detailed examination on the work procedures of the Registration of Persons Office, as well as various privacy and security aspects in relation to the collection, storage and use of data. The Privacy Commissioner for Personal Data (Privacy Commissioner) would be informed of the findings of each assessment and his views would be taken into account when the Administration formulated and revised the data protection measures.

9. As to whether the findings of the completed PIA would be disclosed, DD of Imm confirmed that in principle, the Administration had no objection to disclosing the findings to members. However, it might not be appropriate to disclose the study report in full as some parts contained sensitive information, such as those about the operations of the Immigration Department (ImmD). In response to Miss Emily LAU's request for release of the findings of the PIAs and the earlier feasibility study report on options for the introduction of a new ID card and a new Registration of Persons System, DD of Imm advised

that while the latter could be made available to members, the first PIA report had just been received by ImmD which would need some time to consider the extent to which the findings in the report could be disclosed. He undertook to give a reply to members as soon as practicable.

10. Miss Emily LAU considered that completion of the PIAs should tie in with the funding request for the ID card project so as to assure Members and the public that privacy and security concerns were being properly addressed. She cautioned that if funding approval was sought before these concerns were dealt with, the Government might slacken its efforts to resolve the problems.

11. In response, D of Imm stressed that the Government shared members' concerns on the privacy and security of the new ID card and assured members that the project would only be taken forward when the Government was satisfied that all associated problems and issues had been adequately dealt with. However, as the PIAs would be undertaken at various stages of the project, both before and after implementation, to assess the privacy impacts arising from different stages, D of Imm pointed out that the Administration would not be in a position to complete all four studies before funding approval was sought.

12. On the multiple-application capacity of the smart ID card which had been endorsed by the Executive Council in principle, Miss Emily LAU held the view that as far as any new value-added services were concerned, card holders should be given a genuine and non-discriminatory choice and this basic principle should be strictly adhered to by the Administration. In reply, DD of Imm emphasized that it was the promulgated stance of the Administration that only essential immigration-related data would be stored in the proposed smart ID card for authentication purpose. More sensitive data in relation to non-immigration applications would be kept at the back-end computer system. For the great majority of non-immigration value-added applications, card holders would have a choice on whether to include such applications on the card, with the exception of the driving licence which had the same number as the ID card. Merging of the two would bring greater convenience to the card holder. However, a firm decision on the exact amount of data to be stored in the chip had not been made pending further consultation with the community and Members. As legislative amendments were required for any additional functions to be supported by the smart ID card, Members would have ample opportunities to consider the essential needs or otherwise of the data proposed to be contained in the card.

13. In this connection, Miss LAU requested further information on the biometrics data to be stored in the chip. In reply, DD of Imm explained that the information printed on the card face would be more or less the same as those on the existing ID cards. Other biometrics data to be stored in the chip would include the card holder's facial image and the template of two thumbprints which could not be reconstructed into the original thumbprints.

The conditions of stay for non-permanent residents would also be stored in their ID cards so that law enforcement officers on anti-illegal immigration operations could confirm instantly if a person's stay was lawful. The technical feasibility of automated clearance procedures for non-permanent residents could also be further explored.

14. Responding to Mr Andrew WONG's enquiry about the use of the new ID card for electronic voting, the Assistant Principal Immigration Officer confirmed that such an application was technically feasible as the residence status of the card holder could be identified by a digital code stored in the chip.

15. Having regard to the scope of discussion, Miss CHOY So-yuk opined that members' discussion at the meeting should be confined to the present establishment proposal, instead of examining details of the policy aspects of the ID card project. She sought the Chairman's ruling on whether the questions raised were in order. Miss LI Fung-ying shared Miss CHOY's view and remarked that if the six-month extension to his tenure was approved, DD(SA) could complete the necessary preparatory work. Given the proposed time-frame for funding requests and legislative amendments, members would still have other chances to debate the policy issues arising from the ID card project. Miss Emily LAU nevertheless referred to paragraph 19 of the discussion paper outlining a number of decisions passed by the Executive Council.

16. In reply to Miss CHOY, the Chairman said that he would allow members to seek clarification or elucidation on the information given by the Administration in the discussion paper.

17. On the timing of putting up the funding request for the ID card project vis-à-vis that for legislative amendments, DD of Imm explained that the funding submission would likely proceed ahead of legislative amendments. However, the following safeguards would be adopted. Firstly, the Government had already undertaken to comply with the Personal Data (Privacy) Ordinance in the collection, storage, use and release of personal data. Secondly, close liaison would be maintained with the Privacy Commissioner in formulating relevant policies and mitigation measures. Thirdly, the necessary legislative amendments would be examined with substantial input from the Privacy Commissioner to ensure the adequacy of privacy safeguards. In view of the short lead time in the run-up to the introduction of a new ID card in early 2003, there was an urgent need to secure project funding within the first quarter of 2001 for tendering and development of a new supporting computer system.

18. Miss Emily LAU considered that that DD of Imm's statement had retracted from the undertaking given by D of Imm earlier on that the Administration would proceed with the project only after all privacy and security concerns were satisfactorily addressed. In response, D of Imm pointed out that there was no retraction as not all concerns could be resolved by the Government alone. Some problems might require input from the

system vendors in the course of developing the system. Hence, it would be of utmost importance to specify the requirements clearly in the tender documents which were to be prepared by DD(SA) so that the concerns identified would be catered for in the future system.

19. Miss Emily LAU commented that the Administration's explanation was unsettling rather than re-assuring because it seemed that the Government itself was not sure how the problems could be resolved and it was just relying on the vendors for assistance. She was gravely concerned about the far-reaching consequences in the event of the vendors' failure to deal with the privacy and security concerns.

20. Responding to Mr Andrew WONG's enquiry about the time frame for legislative amendments, DD of Imm said that after project funding was secured, DD(SA) would start preparing the tender documents which would define, inter alia, the security requirements. The evaluation of tenders, the selection of the most suitable products and vendors, as well as the development of the supporting computer system would then proceed, to be followed by a series of testings. Work procedures and guidelines, as well as a code of practice would also be formulated. To give legal effect to the implementation of the new ID card, the necessary legislative proposals would be introduced to LegCo for scrutiny.

21. Mr Andrew WONG was not convinced that funding submission should precede passage of the necessary legislation in the overall implementation plan. He pointed out that this arrangement would pre-empt Members' decision on the proposed legislation because if the legislative amendments were not passed, all the public money spent previously on the up-front work would be wasted. He cautioned that such an approach might provoke much criticism from the public. He remarked that if the Government insisted on seeking funding before putting up the necessary legislative proposals, he would not support the funding request of the ID card project.

22. Miss Emily LAU shared Mr Andrew WONG's views and questioned the reasons for deviating from the normal procedures of seeking funding approval after passing the necessary legislation.

23. In reply, DD of Imm pointed out that by the time the funding request was put to FC, an examination on the necessary legislative amendments should have been completed and a clearer way forward would then emerge. However, given the complex technologies involved, it would be pre-mature to introduce the legislative amendments before the project framework took shape with the progress of system development.

24. To supplement, the Principal Assistant Secretary for Security (PAS(S)) informed members that when the last ID card replacement exercise was conducted, legislative amendments on the implementation of the project were

introduced after funding approval. Mr Andrew WONG however disagreed with drawing a direct comparison between the two exercises because under the present proposal, a totally different kind of ID card was contemplated.

Admin 25. In order to allay members' concerns, D of Imm agreed to provide more detailed information on the necessary legislative amendments after further consultation with the Department of Justice (D of J). As to whether the information could be made available before the FC meeting (i.e. 15 December 2000) to consider this item, D of Imm said that while he could not make a firm undertaking pending the advice of D of J, the Administration would make every endeavour to give members an early reply. He nevertheless confirmed that such information, as well as detailed information on ways to tackle the privacy and security issues arising from the new ID card, would be included in the submission to FC for project funding. In this connection, PAS(S) re-affirmed the Government's commitment and confidence to deal with the concerns raised by members in the course of considering the project. He also referred members to the measures outlined in the information papers provided to the Security Panel. However, he also pointed out that some tasks such as the remaining three PIAs could only be meaningfully undertaken as the plan rolled forward.

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26. While appreciating members' concern about the timing for introducing legislative amendments in connection with the new ID card project, the Deputy Secretary for the Treasury pointed out that the Administration would provide the necessary information to address these concerns when seeking FC's funding approval for the project in due course.

27. The item was put to vote and endorsed.

28. Miss Emily LAU requested that her reservation on this item be recorded and that this item be voted on separately from other ESC items at the relevant FC meeting.

29. The Subcommittee was adjourned at 9:55 am.