

立法會
Legislative Council

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LegCo Panel on Home Affairs

**Minutes of special meeting
held on Tuesday, 9 July 2002 at 10:45 am
in the Chamber of the Legislative Council Building**

- Members Present** :
- Hon IP Kwok-him, JP (Chairman)
 - Hon Andrew CHENG Kar-foo (Deputy Chairman)
 - Dr Hon David CHU Yu-lin, JP
 - Hon Cyd HO Sau-lan
 - Hon Albert HO Chun-yan
 - Hon NG Leung-sing, JP
 - Hon James TO Kun-sun
 - Hon Andrew WONG Wang-fat, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon CHOY So-yuk
 - Dr Hon TANG Siu-tong, JP
 - Hon Henry WU King-cheong, BBS, JP
 - Hon Tommy CHEUNG Yu-yan, JP
 - Hon Michael MAK Kwok-fung
 - Hon Albert CHAN Wai-yip
 - Hon MA Fung-kwok, JP
- Members Absent** :
- Hon LAU Wong-fat, GBS, JP
 - Hon Timothy FOK Tsun-ting, SBS, JP
 - Hon WONG Sing-chi

**Public Officers:
Attending**

Item I

Mr NG Sek-hon, JP
Deputy Secretary for Home Affairs (3)

Ms Eva TO
Principal Assistant Secretary for Home Affairs (Recreation
and Sport)

Mr Johnny W M WOO
Assistant Director of Leisure and Cultural Services
(Leisure Services)2

Mr Charles CHU
Chief Recreation and Sport Officer (Sports Policy Review)

Item II

Mr Stephen FISHER
Deputy Secretary for Home Affairs (2)

Ms Janet WONG
Deputy Director of Home Affairs (1)

**Attendance by
Invitation**

: Item I

Hong Kong Sports Development Board

Mr John Terence HUNG, SBS, JP
Chairman

Mrs Maureen CHAN LEUNG Mong-lin
Executive Director

Sports Federation and Olympic Committee of Hong Kong,
China

Dr LEUNG Mee-lee
Honorary Deputy Secretary

Mr Ronnie WONG
Honorary Deputy Secretary

Item II

Islands District Council members

Mr LEE Chi-fung, MH

Ms CHUI Pui-man

Mr WAN Tung-lam

North District Council members

Mr HAU Kam-lam

Mr LIU Chiu-wa

Yuen Long District Council members

Mr TANG Sik-hung

Mr TANG Hing-ip

Kwai Tsing District Council members

Mr LAW King-shing

Ms CHAN Ka-mun

Association of New Territories Indigenous Residents

Mr TANG Ki-tat
Vice Chairman cum Spokesman

Mr LEUNG Fuk-yuen
Vice-Chairman

Mr TANG Sing-si
Adviser

Lantau Island Association of Societies

Mr LEE Chi-fung, MH
Chairman

New Territories Concerns

Mr Steven Y C LIU
Secretary

Mr TSE Kwan-sang
Spokesman

Sha Tin District Council member

Mr NAM Yuk-tong
(also Chairman of Sha Tin Rural Committee)

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2)2

Staff in Attendance : Miss Lolita SHEK
Senior Assistant Secretary (2)7

I. Follow-up discussion on the Sports Policy Review

The Chairman said that the purpose of the meeting was to hold more detailed discussion on the Report of the Sports Policy Review Team (the Report), particularly on the future administration structure for sport with the Hong Kong Sports Development Board (SDB), Sports Federation and Olympic Committee of Hong Kong, China (SF&OC), and the Administration, after having received views from over 50 deputations on the Report at the meeting on 22 June 2002.

Meeting with deputations

2. Members noted the further submissions from SP&OC and the Hong Kong, China Rowing Association respectively [LC Paper Nos. CB(2)2526/01-02(01) and (02)].

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3. At the invitation of the Chairman, Mr John HUNG of SDB briefed members on the views of SDB on the future administrative structure for sport as follows -

- (a) SDB technically supported any changes that were conducive to the overall delivery of sports in Hong Kong. It could hardly object to the dissolution of SDB if another sport authority was in a better position than SDB to take over the coordination of development of sport in Hong Kong;
- (b) SDB had great reservation about the improvements to the administrative structure for sport that could be brought along by the establishment of the proposed Sports Commission if the latter was only to be an advisory body without execution powers, and its functions and role very similar to those of SDB. If the set up of the Commission was targeted at achieving a change in the personnel of the sport authority, SDB considered that replacement of the entire membership of the Board could well serve the purpose, without the need to dissolve SDB; and
- (c) the Report had not provided details of the Sports Commission, such as its responsibilities and authority, composition, interface with SF&OC and national sports associations (NSAs) and authority over the former, whether there were any differences between the Commission and SDB in these areas and, most of all, why such a Commission was needed.

4. Mr John HUNG stressed that SDB had grave concerns about the Sports Policy Review Team's assumptions that changes in the administrative structure would solve all the key issues in sport and that the establishment of the Sports Commission would make all the problems disappear. He added that without providing detailed information on the Sports Commission and clear pros and cons of the three options listed in paragraph 8.15 of the Report, the Review Team had not made a convincing case that its proposed administrative structure for sport would bring major improvements to the current situation.

5. In response to the Chairman, Mr Ronnie WONG of SF&OC informed members that a committee consisted of twelve members of SF&OC had been formed to study the Report. The committee had consulted more than seventy NSAs and sport professionals who were of the view that the Report was very open, objective and comprehensive. It had also allowed for comments from the sports community. They all agreed that the Report was the best consultative paper on sport prepared by the Government.

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6. Nevertheless, Mr Ronnie WONG said that he agreed with Mr John HUNG that the Report had not provided details of the responsibilities and composition of the Sports Commission. Whether the Commission would be accorded with executive powers and who would be appointed as members of the Commission were the major concerns of the sports community. Mr Ronnie WONG advised that SF&OC had put forth its suggestions on these two aspects in its submissions to the Panel. Besides increasing transparency in the appointment of the senior staff and members of the Commission, SF&OC believed that equally important was the acquisition of sufficient funding and resources for sport in areas such as elite training and sports venues.

Meeting with the Administration

7. In response to the concerns raised by SDB and SF&OC, Deputy Secretary for Home Affairs (3) (DS(HA)3) explained that the Sports Policy Review Team had identified two major problems in the existing administrative structure for sport, namely, the absence of a single organisation responsible for overall policy, planning, coordination and monitoring of sports development and a perceived overlap and lack of clarity in the delineation of responsibilities between the Leisure and Cultural Services Department (LCSD) and SDB. The Review Team had therefore recommended to tackle these problems by streamlining and simplifying the administrative structure for sport through the establishment of the Sports Commission. The Commission would enhance the coordination of the efforts and resources in sports development as well as the monitoring of the implementation of sports policy.

8. As regards the differences between SDB and the Sports Commission, DS(HA)3 explained that SDB had been entrusted with so many responsibilities that it could not concentrate on strategic policy planning. The Sports Commission would focus its efforts on this latter aspect while others would be responsible for implementing and executing sports policies and decisions. The role of the Commission would be similar to those of the advisory bodies established in other policy areas such as the Education Commission. It would be a high level advisory body responsible for advising the Government on strategic policy planning and funding as well as coordinating key activities in the sports sector. DS(HA)3 stressed that there would be a partnership relationship between the Sports Commission and the Government who would rely on the professional advice of the Commission in formulating sports policies. The joint efforts of the Government, the Sports Commission and the sports community would be crucial to the success of sports development in Hong Kong.

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Discussion

Roles and functions of the Hong Kong Sports Development Board

9. Mr Andrew CHENG requested Mr John HUNG to elaborate on the improvements that could be introduced to the role and functions of SDB under the existing administrative structure so that the objective of creating a more efficient and transparent framework for sports administration could be achieved without the need for the establishment of the Sports Commission and hence the dissolution of SDB.

10. In response, Mr John HUNG reiterated that as explained clearly in its earlier submission to the Panel, SDB had discharged its functions in accordance with the SDB Ordinance very satisfactorily and had made significant contributions towards the sports development in Hong Kong over the past twelve years. He admitted that there had been problems with some members of its directorate staff over their relationship with SF&OC and NSAs but the problems were reciprocal. He assured members that with the changes introduced to the management of SDB under the leadership of Mrs Maureen CHAN as the Executive Director, the cooperation between SDB and sports organisations had been greatly improved.

11. Mr John HUNG continued to explain that there were two major functions of SDB, namely, sports policy planning and implementation of these policies. As regards the former function, SDB had produced two five-year strategic plans over the past years. Indeed, some of the recommendations put forth in the Report of the Sports Policy Review Team were similar to those formulated by SDB in these two plans and had been repeatedly pushed for by SDB. However, the two plans had not been completely discharged due to shortage of funds and lack of government commitment. As regards the executive function of SDB, Mr HUNG admitted that there had been criticisms and dissatisfaction from NSAs regarding the allocation of sports funding. He said that the shortage of funding and mismatch of the timing of the arrival of Government subvention and the applications for subsidies from NSAs could account for this problem. If a new authority was to be set up for the allocation of sports funding, it would still be confronted with the same problem unless the funding issues were addressed properly. He added that the uncertainty over the exact amount of Government subvention each year had rendered it extremely difficult for SDB to make long-term planning.

12. Mr John HUNG further pointed out that while shortage of funding had imposed restrictions on the functions and activities of SDB, the dissolution of the former Provisional Municipal Councils and the establishment of LCSD in 1999 had also affected the role of SDB. As mentioned in the Report, there was perceived overlap in the responsibilities of SDB and LCSD. Mr HUNG suggested

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that the Government should review the scope of activities and programmes of SDB and pass some of them onto LCSD as appropriate so that SDB could concentrate its efforts and resources on performing the remaining functions and responsibilities more effectively. The shortage in funding would then be reduced and some of the problems in the allocation of sports funding might also be solved. Mrs Maureen CHAN supplemented that it might be necessary for the Government to review and amend the SDB Ordinance so as to clearly delineate the functions and responsibilities of SDB, LCSD, the Home Affairs Bureau (HAB), and SF&OC.

13. In response to a question from Ms Emily LAU about the staff morale of SDB, DS(HA)3 advised that the Administration had met with staff of SDB and assured them that appropriate arrangements would be made for them irrespective of the option to be adopted by the Government regarding the administrative structure for sport in future. Mr John HUNG informed members that this issue had been discussed at length at the last few board meetings of SDB. There had been grave concerns about staff morale and arrangements for staff whose contracts were due for renewal in the following six months. Because of the uncertainty about its future, SDB had also been cautious and signed only short-term contracts with outside contractors recently. He added that if there were situations regarding staff redundancy and their treatment, particularly if the Board was to be disbanded, then the Government had to inherit the problem. DS(HA)3 assured members that the Administration would continue to liaise with SDB and assist in tackling issues arising from the possible changes in the sports administrative structure.

The proposed Sports Commission

14. Mrs Maureen CHAN of SDB pointed out that representatives from HAB, LCSD and SF&OC had already been appointed as members of SDB. She queried how the composition of the Sports Commission would differ from that of SDB that would enable it to become an higher level advisory body than SDB. Seeking similar clarification from the Administration, the Chairman also requested for further information on the powers of the Commission. DS(HA)3 clarified that the Government would attach much importance to the advice offered by the Commission and allocate sufficient resources to facilitate the implementation of the sports policies formulated by the Commission.

15. Mr Andrew CHENG said that he agreed with Mr John HUNG that the Report had not provided many details of the responsibilities and authority of the Sports Commission or the future sports funding mechanism. He had reservation on how the Government could convince the public that its proposed administrative structure for sport would be a better option than the existing one. In reply, DS(HA)3 reiterated that the Review Team had identified the problems in the existing sports administrative structure and considered that the establishment of

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the Sports Commission would help improve the situation greatly. He added that transparency in the allocation of sports funding would be increased and the existing funding procedures would be streamlined and simplified so that there would only be one single funding authority in future. The use of sports funding would also be reviewed and new sources of funding would be explored.

16. Referring to the views of SF&OC and NSAs on the administrative structure for sport, Mr Andrew CHENG commented that they were mainly concerned about the fair allocation of sports funding and supported the Government's proposal for an advisory Sports Commission. Mr CHENG opined that a macro approach should be adopted for sports development in Hong Kong rather than focusing on the distribution of resources. He was of the view that it would not be conducive to the development of sport in Hong Kong if the sport authority was to be converted from a statutory decision-making body to one that was purely advisory in nature without executive powers.

17. Mr Ronnie WONG responded that SDB had been operated in a "rule of man" style which had caused criticisms and dissatisfaction from NSAs over the allocation of sport resources. He said that this situation would be improved if the Sports Commission was made up of members from the sports community as suggested by SF&OC on previous occasions. He added that the Review Team had left room for the public and the sports community to voice out their views on the proposed Sports Commission and therefore had not provided many details of the Commission in the Report. He expected that the Government would draw up a more detailed proposal on the Commission after the consultation period based on the views collected.

18. Mr Andrew CHENG further enquired how the situation of "rule of man" could be prevented in the operation of the Sports Commission. He also asked if improvements were made to the execution of sports policies as well as the funding mechanism, would the Government and NSAs agree to preserve the statutory status of the sport authority.

19. Mr Ronnie WONG replied that there was obvious overlap in the responsibilities and functions of LCSD and SDB, resulting in a waste of resources. It was therefore necessary to review the distribution of advisory and executive duties between the Sports Commission, LCSD and other related organisations. While believing that the decision on the statutory status of the sport authority should be left in the hands of the Government, Mr WONG remarked that the Sports Commission might also assume executive functions on top of its advisory role.

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20. DS(HA)3 explained that changes to the existing administrative structure for sport had been recommended with a view to achieving clear delineation of responsibilities and hence better coordination in sports policies and activities between Government departments, the sports community and other relevant stakeholders to facilitate the development of sport in Hong Kong. The Government would welcome views from the public on the three options proposed in the Report.

21. Referring to the second paragraph of SF&OC's further submission, Mr John HUNG pointed out that despite SF&OC's support for the Sports Commission, there was the possibility that the latter might become the "agent" that might create "hurdles" in fostering mutual trust and effective communication between the Government and the sports sector as depicted in paragraph 2(b) of SF&OC's submission. As regards the need for a longer term comprehensive sports policy mentioned in paragraph 2(h) of the submission, Mr HUNG stressed that SDB had devised two five-year strategic plans already. However, because of shortage of funds and changes in its role and functions brought by the establishment of LCSD, these plans had not been implemented completely. He said that the new Sports Commission would face the same problem if the provision of Government subvention remained unchanged in future. He also pointed out that the Report of the Sports Policy Review Team had not elaborated on how the Sports Commission would interface and coordinate with SF&OC and NSAs. It was therefore not appropriate to assume that the Commission would out-perform SDB in this aspect.

Management of sports organisations

22. Mr Albert CHAN remarked that one of the problems hindering sports development in Hong Kong was that the non-professionals were leading the professionals. Not only was the overall sport development led by the Government, the sports organisations were also controlled by businessmen who did not possess sufficient knowledge in sport for providing professional leadership for the development of the sport items. He pointed out that there would not be a change in the persons in charge of some NSAs despite years of records of unsatisfactory performance of its athletes. He pointed out that this issue had not been addressed in the Report and invited comments from SF&OC.

23. In reply, Mr Ronnie WONG explained that the issue of non-professional leading the professionals would be resolved if the Government accepted the suggestions from SF&OC and NSAs and appoint their representatives as members of the Sports Commission. While admitting that the quality of the management of NSAs varied widely, Mr WONG advised that the Government, SDB or SF&OC had not involved themselves in the daily operation of NSAs directly as this was not advocated by the International Olympic Committee. Nevertheless, SF&OC

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would identify NSAs with management problems to the Government who would then exercise pressure on the latter for improvements through the control of subvention. In some cases, the Government had bypassed the NSAs concerned and provided subsidies to the athletes concerned directly to ensure that the latter would not suffer as a result of the poor management of the NSAs concerned. He assured members that SF&OC would examine the issue in further details and make recommendations to the Government as appropriate.

Prospect of elite athletes

24. Noting that the Report had only briefly mentioned about the educational and career prospect guidance support to be provided for full-time athletes, Mr Albert CHAN invited views from Mr Ronnie WONG on the improvement of career prospect for elite athletes. Mr WONG advised that SF&OC had already included recommendations on this aspect in its submissions to the Panel. Mrs Maureen CHAN informed members that SDB had contributed a lot to the improvement of career prospect for elite athletes. Besides offering them one-year employment in SDB upon their retirement to enable them to adapt to the transition, SDB also secured sponsorships for their further studies overseas or locally. Mrs CHAN said that SDB had assisted many retired athletes to build up a career of their own. She cited Ms CHAN Nim-chee as a prominent example, who had once been an excellent athlete in badminton and now became one of the managers of SDB.

Way forward

25. In response to Ms Emily LAU, DS(HA)3 advised that the Administration would provide more details of the proposed sports structure after the consultation period and revert to the Panel for further discussions. Mr John HUNG urged that the role, functions and powers of the Sports Commission should be clearly defined before a final decision was made on the administrative structure for sport. The Chairman remarked that since SDB was a statutory body, any changes to be made to it would need to be effected through legislative amendments. He requested the Administration to take into account the views of the Panel, the organisations concerned as well as members of the public in formulating the detailed set of proposals on sports development and revert to the Panel in due course.

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II. Proposed arrangements for the conduct of Village Representative elections

Meeting with deputations

26. At the invitation of the Chairman, deputations and individuals presented their views on the proposed arrangements for the conduct of Village Representative (VR) elections as summarised in paragraphs 27 to 38 below.

Lantau Island Association of Societies
[LC Paper No. CB(2)2488/01-02(05)]

27. Mr LEE Chi-fung, Chairman of the Association, who was also a member of the Islands District Council, highlighted the salient points of the submission from the Association as follows -

- (a) the proposed arrangement that spouse of indigenous inhabitants could only vote in the elections for Indigenous Inhabitants Representative in the indigenous villages of which they were recognised as indigenous inhabitants by the Director of Home Affairs was very unreasonable. The Government should respect the traditions of indigenous inhabitants and allow their indigenous spouse the right to vote in the elections for Indigenous Inhabitants Representative in the former's villages. The Association agreed that non-indigenous spouse of indigenous inhabitants, on the other hand, could only vote in the elections for Residents Representative in their spouse's villages;
- (b) the Association supported the Administration's proposal that the current number of VR for individual indigenous villages should be maintained for the 2003 elections; and
- (c) both Indigenous Inhabitants Representative and Residents Representative should be responsible for handling matters relating to general village affairs while the former, in addition to this responsibility, should also manage affairs relating to indigenous inhabitants' lawful traditional rights and interests as well as the traditional way of life in indigenous villages.

Ms CHUI Pui-man, Islands District Council member

28. Ms CHUI opined that the welfare of the residents in public housing estates and private buildings had already been taken care of by their mutual aid

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committees (MACs) and owners' corporations (OCs), as well as the elected members of the District Councils (DCs) concerned. To avoid duplication in roles and efforts, she suggested that public housing estates and multi-storey private buildings should be excluded from the scope of VR elections.

Mr HAU Kam-lam, North District Council member

29. Mr HAU presented his views on the proposed VR electoral arrangements as follows -

- (a) Government should consult all villagers of the New Territories (NT) on the proposed electoral arrangements;
- (b) wives of indigenous inhabitants, according to the traditions of indigenous villages, were accepted as members of their husbands' clans even though they were non-indigenous inhabitants. They should therefore enjoy the right to vote in the Indigenous Inhabitants Representative elections in their husbands' villages;
- (c) a non-indigenous village should not be split into different constituencies for Residents Representative elections. This would only give rise to conflicts within the village; and
- (d) Government should provide offices for VRs in the villages and pay for the operational costs. As in the case of all other councillors, allowances should also be provided to all VRs.

Mr LIU Chiu-wah, North District Council member

30. Mr LIU opined that non-indigenous residents in an indigenous village should be eligible to be registered as a voter or nominated as a candidate for a Residents Representative election only if they had been residents in that village for not less than 7 years as well as owners of properties in that village. He considered these requirements reasonable as the residency requirement was comparable to that for permanent residence in Hong Kong and other elections such as DC elections while the property ownership requirement was comparable to that for OC elections. Mr LIU added that the duties and responsibilities of the two types of VRs were not clearly defined in the Administration's proposal and accused the government of trying to reduce the powers of the indigenous VRs by introducing the non-indigenous Residents Representatives. He opined that the proposed Indigenous Inhabitants Representative should handle affairs related to both indigenous and non-indigenous villagers.

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Mr TANG Sik-hung, Yuen Long District Council member

31. Mr TANG informed members that he also represented the Ping Shan Rural Committee in presenting views on the proposed arrangements for VR elections. Mr TANG said that the Rural Committee was opposed to the proposed arrangements. It considered that indigenous villages could not be split and village affairs should not be managed by non-indigenous VRs. It strongly requested for the reinstatement of the existing arrangements for VR elections which were in fact clansmen's elections. He added that the Committee was also dissatisfied that HAB had never consulted villagers of NT on the proposed electoral arrangements.

Mr TANG Hing-ip, Yuen Long District Council member

32. Mr TANG summarised his views as follows:

- (a) the proposals on VR elections presented in the papers provided by the Administration had been amended frequently causing confusion and reflecting the lack of planning of the Government;
- (b) the consultation process was neither transparent nor democratic as the Government had not followed its usual practice in public consultation by issuing a proper consultation paper to provide details of the proposed arrangements to the public;
- (c) the proposals would affect the stability and harmony in the villages of NT as well as the cooperation of the villagers concerned;
- (d) the proposals would also have impact on the composition of the Rural Committees (RCs), Heung Yee Kuk (HYK), DCs and even the Legislative Council (LegCo);
- (e) the proposals would deprive the indigenous inhabitants of their traditional rights and hence contravened the Basic Law (BL) and might give rise to further law suits creating controversies and instability in the society;
- (f) he strongly requested the Government to defer the implementation of the proposed VR electoral system to ensure that comprehensive public consultation was conducted before detailed electoral arrangements were finalised; and

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- (g) the Government should consider the views of the indigenous villagers seriously instead of portraying a stubborn and unreasonable image of them.

Mr LAW King-shing, Kwai Tsing District Council member
[LC Paper No. CB(2)2488/01-02(03)]

33. Mr LAW sought clarification on the criteria based on which recognition of the identity of indigenous inhabitants was provided by the Department of Home Affairs (HAD), whether the Lands Department (LD) also possessed such an authority besides HAD, and if so, which department had the final ruling in case of contradictions between the decisions of the two departments. Mr LAW was also opposed to the proposal to maintain the number of VRs for individual indigenous villages for the 2003 elections. He pointed out that population in many villages had experienced drastic changes in the past four years which should be reflected in the changes to the number of VRs in the upcoming elections. Mr LAW considered that the principles of free and fair elections should not be compromised because of administrative convenience.

Ms CHAN Ka-mun, Kwai Tsing District Council member

34. Ms CHAN said that she only supported the proposal to standardise the elections for the 27 RCs put forth by the Administration. As regards the voting right of wives of indigenous inhabitants, she considered the deprivation of their right to vote in the Indigenous Inhabitants Representative elections in their husbands' villages a retrograde step since they had already been allowed to vote in the last VR elections.

Mr NAM Yuk-tong, Sha Tin District Council member and Chairman of Sha Tin Rural Committee

35. Mr NAM presented his views on the proposed VR electoral arrangements as follows:

- (a) the Sha Tin Rural Committee welcomed democratic, free and fair VR elections;
- (b) as these elections would affect the daily lives of and the relationship between indigenous and non-indigenous villagers, thorough examination and deliberation of the proposals was necessary before implementation;

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- (c) several recognised indigenous villages in Sha Tin did not have VRs of their own. Despite repeated requests from the villagers concerned, HAD had refused to arrange for these villagers to elect their own VRs in the upcoming VR elections on the excuse of insufficient manpower. The deprivation of the right of the indigenous inhabitants to elect their VRs was unfair and not acceptable;
- (d) the proposed electoral arrangements were not consistent with the constitution of HYK and RCs. The Government should consider whether amendments to the charters were required;
- (e) he was opposed to the deprivation of the voting right of wives of indigenous inhabitants in the elections for Indigenous Inhabitants Representative in their husbands' villages; and
- (f) the duties and responsibilities of the two types of VRs were not clearly defined. The Indigenous Inhabitants Representatives should be responsible for handling daily village affairs as well as affairs related to the traditional rights and interests of indigenous inhabitants.

Association of New Territories Indigenous Residents
[LC Paper No. CB(2)2488/01-02(04)]

36. Mr TANG Sing-si, Adviser to the Association briefed members of the views of the Association as follows -

- (a) VR elections were in fact elections of the clansmen of indigenous inhabitants of NT. The existing election system had been developed by the indigenous inhabitants in accordance with and had become part of their traditions. As the traditional rights and interests of the indigenous inhabitants were protected under BL 40, the VR electoral arrangements proposed by the Administration had contravened BL by changing the traditional election system;
- (b) the welfare and concerns of residents in private and public housing estates had already been taken good care of by their OCs and MACs as well as elected DC members. It was therefore not necessary to include these residents in the VR elections;
- (c) the functions of the Indigenous Inhabitants Representative as proposed by the Administration had in fact been performed by some of the office-bearers in the clans of the indigenous inhabitants already while that of the Residents Representative were performed

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by the existing VRs. The proposed changes to the posts of VR were therefore redundant;

- (d) it was not appropriate to set boundaries for the village constituencies for the elections of Indigenous Inhabitants Representative;
- (e) wives of indigenous inhabitants had all along been allowed the right to vote in VR elections in their husbands' villages. It was not acceptable that they should be deprived of such a right in the proposed electoral arrangements;
- (f) as the existing elections of VR in non-indigenous villages were conducted in a way similar to that proposed by the Administration, it was not necessary to introduce any changes to the existing electoral arrangements in these villages; and
- (g) the electoral system proposed by the Administration was neither reasonable nor well justified. The Association was opposed to the proposed system which might create confusion and conflicts between indigenous inhabitants and non-indigenous residents. It considered that the existing electoral arrangements should be maintained with modifications. To be eligible to participate in the elections for VRs in indigenous inhabitants villages, non-indigenous residents over the age of 18 should reside in the villages concerned for not less than 7 years and own properties there for not less than 10 years.

37. Mr TANG Ki-tat, Vice Chairman cum Spokesman of the Association supplemented that the Government had never consulted the indigenous villagers on the proposed arrangements and urged it to listen to their views.

New Territories Concerns

38. Mr Stephen LIU, Secretary of New Territories Concerns presented the views of the organisation as follows -

- (a) VR was a statutory post through which the incumbent might be eligible to become a member of RC, HYK and DC, and even be elected as a Member of LegCo. Since participation in the elections for VR was the right of all residents of NT, VRs should be elected by universal suffrage by the latter. As such, only VRs who were elected in this manner should be eligible to become part of the representative government. The Government should therefore define clearly the

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duties and responsibilities of the two types of VRs and clarify this issue in its proposal;

- (b) the proposed electoral arrangements were unfair to non-indigenous residents since the indigenous inhabitants were allowed to vote for both Indigenous Inhabitants Representatives and Residents Representative whereas non-indigenous residents could only vote for the latter. The New Territories Concerns had decided to challenge this arrangement at court in future if it was put into practice as it contravened the judgment of the Court of Final Appeal (CFA) delivered on 22 December 2000; and
- (c) the New Territories Concerns was also opposed to the residency requirements for voters and candidates for Residents Representative elections proposed by the Administration.

Response of the Administration

Voting right of spouse of indigenous inhabitants

39. In response to the concerns on the voting right of spouse of indigenous inhabitants raised by the deputations, Deputy Secretary for Home Affairs (2) (DS(HA)2) explained that HAB would be prepared to accept arrangements which complied with the Sex Discrimination Ordinance. It considered that if wives of indigenous inhabitants were eligible to vote in the elections for Indigenous Inhabitants Representative in their husbands' villages, similar right should be enjoyed by husbands of indigenous inhabitants. He assured members that HAB would continue to discuss this issue with villagers of NT.

Identity of indigenous inhabitants

40. As regards the identity of indigenous inhabitants, DS(HA)2 advised that the subject matter was dealt with by both HAD and LD separately for different purposes. HAD would recognize the identity of an indigenous inhabitant for the purpose of granting his rights in VR elections whereas LD would recognise that identity for the purpose of assessing a small house application. However, the criteria adopted by both departments were similar. The two departments would liaise with each other closely to ensure the consistency of their decisions. DS(HA)2 further pointed out that recognition of the identity of indigenous inhabitant in VR elections did not automatically confirm one's eligibility to built small houses.

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Discussion

Consultation

41. Dr TANG Siu-tong opined that while respecting and complying with CFA's judgment, the Government should also take into consideration the traditional rights and interests of indigenous inhabitants of NT and regard HYK as a functional body. The affairs relating to indigenous inhabitants could not be handled by non-indigenous residents. He urged the Government to conduct comprehensive public consultation on the proposed arrangements for VR elections and listen to the views of the villagers.

42. Deputy Director of Home Affairs (1) informed members that the Administration had consulted HYK and the 27 RCs on its proposals. Staff of NT District Offices (DOs) had also discussed the proposed arrangements with the villagers. She said that the Administration welcomed comments from the public and would revert back to the Panel after collecting views on the proposals. HYK would also be further consulted. Mr TANG Sik-hung, however, reiterated that HYK or VRs had never been properly consulted on the detailed proposals.

43. Miss CHOY So-yuk said that she had received complaints from non-indigenous residents of NT that they had not been consulted on the proposed electoral arrangements. She suggested HAB to visit the villages and consult the villagers directly instead of through staff of DOs.

44. In reply, DS(HA)2 advised that the Administration had conducted a meeting with the 27 RCs on 4 June 2002. He explained that because of limited staff resources, it would not be possible for HAB to visit all the 700 villages. However, a special team had been established in HAD to visit some of the villages and explain the proposals to the villagers. DO staff would also discuss the proposed arrangements with villagers whenever possible. In addition, staff of HAB and HAD would visit and meet with the villagers if requested. Miss CHOY suggested that consultation might be conducted with villagers of several villages or their representatives together in a single venue so as to save time.

Voting right of spouse of indigenous inhabitants

45. Miss CHOY So-yuk objected to the deprivation of the voting right of the wives of indigenous inhabitants in the elections for Indigenous Inhabitants Representative in their husbands' villages. She pointed out that it would be meaningless if they were only allowed to vote for Indigenous Inhabitants Representative in the villages of which they were recognised as indigenous inhabitants since they no longer lived there after getting married. Instead, they

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should be allowed to vote for VRs to represent them on matters relating to their daily lives in their husbands' villages where they were residing. She urged the Administration to amend its proposal accordingly.

46. DS(HA)2 clarified that non-indigenous spouse of indigenous inhabitants would be eligible to vote in the elections for Residents Representative in their villages. The eligibility to vote in the elections for Indigenous Inhabitants Representative, however, would need to be based on their identity as indigenous inhabitants of the villages concerned. He admitted that while fully complied with the laws of Hong Kong, this proposal might not be completely consistent with the traditions of the indigenous villages. He assured members that the Administration would continue to discuss this issue with the villagers, but reiterated that there should be same treatment for both sexes.

47. In response to Miss CHOY So-yuk's enquiry, Mr HAU Kam-lam explained that according to the traditions in indigenous villages, non-indigenous husbands of indigenous inhabitants would be accepted as members of their wives' clans only if they had taken up the family name of their wives. They would then be eligible to vote in the elections for VRs in their wives' villages under the existing electoral arrangements. Mr Andrew WONG, then asked about the voting right of these non-indigenous husbands of indigenous inhabitants if they had not taken up the family name of their wives. Both Mr LEUNG Fuk-yuen, Vice-Chairman of the Association of New Territories Indigenous Residents and Mr TANG Sik-hung confirmed that to protect the completeness of the clans, non-indigenous husbands of indigenous villagers would not be eligible to vote under the existing election system if they did not take up the family name of their wives. Mr TANG Ki-tat supplemented that the Association of New Territories Indigenous Residents considered that these residents would be eligible to vote if they owned properties and had lived in the villages concerned for not less than 7 years, like all other non-indigenous inhabitants.

Residency requirements for voters and candidates for Residents Representative elections

48. Mr Andrew WONG invited the views from the New Territories Concerns on the residency requirements for voters and candidates for Residents Representative elections. Mr TSE Kwan-sang, Spokesman of the organisation, responded that the organisation would only accept election of VRs by universal suffrage. However, it did not object to the seven years' residency and property ownership requirements on non-indigenous voters for the election of only one VR proposed by the Association of New Territories Indigenous Residents. The major concern of the New Territories Concerns was that only VRs elected by universal

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suffrage should become members of RCs and hence part of the representative government.

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49. To conclude, the Chairman thanked the deputations for presenting their views to the Panel. He requested the Administration to conduct comprehensive public consultation on the proposed electoral arrangements and revert back to the Panel with the results of the consultation. In response, the Administration undertook to provide a written report on the results of the consultation to the Panel by the end of July 2002.

III. Any other business

50. There being no other business, the meeting ended at 1:30 pm.

Council Business Division 2
Legislative Council Secretariat
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