

立法會
Legislative Council

LC Paper No. CB(2)549/01-02
(These minutes have been
seen by the Administration)

Ref : CB2/PL/SE/1

LegCo Panel on Security

**Minutes of meeting held on Thursday, 1 November 2001
at 2:30 pm in the Chamber of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members attending : Hon Cyd HO Sau-lan
Hon Emily LAU Wai-hing, JP

Public Officers attending : Item III

Mr Michael WONG
Deputy Secretary for Security 3

Mr Alan CHU
Principal Assistant Secretary for Security D

Mr K C CHOW
Assistant Director of Immigration
(Information Systems)

Mr C H CHEUNG
Principal Immigration Officer (Information Systems)

Mr Albert LAI
Chief Systems Manager
Immigration Department

Items IV and V

Mr Michael WONG
Deputy Secretary for Security 3

Ms Linda SO
Principal Assistant Secretary for Security C

Mr Henry SIU
Assistant Director of Immigration
(Visa and Policies)

Mr David CHIU
Principal Immigration Officer (Visa Control)

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2)1

Staff in attendance : Mr Raymond LAM
Senior Assistant Secretary (2)5

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- I. Confirmation of minutes of meeting held on 11 October 2001 and matters arising**
(LC Paper Nos. CB(2) 105/01-02 and 179/01-02(01))

The minutes of the meeting held on 11 October 2001 were confirmed.

List of follow-up actions required of the Administration

2. Members noted the list of follow-up actions required of the Administration.

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II. Date of next meeting and items for discussion
(LC Paper No. CB(2) 179/01-02(02))

Regular meeting in December 2001

3. Members agreed to discuss the following items at the next regular meeting to be held on 6 December 2001 at 2:30 pm -

- (a) Proposed legislation for the prevention of child pornography;
- (b) Proposed regulation of dance parties under the Places of Public Entertainment Ordinance (Cap. 172); and
- (c) Report on the review of the Methadone Treatment Programme.

(Post-meeting note : Item (c) was subsequently deferred and an item on "Implementation of projects of an updated Information Systems Strategy in the Immigration Department - updated implementation plan" was added at the request of the Administration.)

Joint Panel meeting on anti-terrorism legislation and related issues

4. Members noted that the Panel on Administration of Justice and Legal Service (AJLS Panel) had proposed a joint meeting with the Panel on Financial Affairs and Panel on Security to discuss anti-terrorism legislation and related issues. The joint meeting was being arranged.

III. Implementation of projects of an updated Information Systems Strategy in the Immigration Department
(LC Paper No. CB(2) 1984/00-01(03))

5. At the invitation of the Chairman, Deputy Secretary for Secretary 3 (DS for S3) briefed Members on the updated Information Systems Strategy (ISS-2) of the Immigration Department (ImmD), which embodied 30 projects aimed at enhancing service quality and lowering of cost. He informed Members that the Administration would seek funding from the Finance Committee (FC) for the implementation of six core projects relating to the Information Technology (IT) Infrastructure Upgrade Programme and the Immigration Control Automation System (ICAS) Enhancement Programme under Phase I of ISS-2.

6. Members noted the Administration's presentation on ISS-2 which highlighted the following points -

- (a) The new information systems under ISS-2 would enable visitors to apply

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for electronic visas or entry permits through the Internet. Travel agencies would also be able to apply for pre-arrival clearance for group tour visitors through electronic means;

- (b) Through the use of smart card and biometric identification technologies, automated passenger and vehicle clearance systems under ISS-2 would reduce waiting time at control points without the need for corresponding increase in manpower of ImmD;
- (c) With ISS-2, it would be possible for applications for extension of stay and change of status to be filed electronically. Booking of appointments for services could be made from home via Electronic Service Delivery channels. With all record checking and retrieval performed on-line, the goal of 'one-stop' service would be achieved for most applications for travel documents and registration of births, deaths and marriage and the processing time reduced;
- (d) Under ISS-2, the public could expect faster response to their requests for information and the security of information systems of ImmD would be strengthened against hacking and viruses;
- (e) The implementation of the first phase of ISS-2, which comprised the IT Infrastructure Upgrade Programme and the ICAS Enhancement Programme was essential for the information systems of ImmD to continue to function as the hardware and software of the systems were aging and obsolescent. The implementation would also enable ImmD to cope with the increasing service demands, improve the services to the public as well as establish a platform to enable the launching of other ISS-2 projects; and
- (f) The Administration expected to be able to achieve break-even two years after the implementation of the two above-mentioned programmes under the first phase of ISS-2.

7. Referring to Annex A to the Administration's paper, the Deputy Chairman commented that the proposed timetable for the implementation of ISS-2 was too slow and should be expedited. He considered that there was a pressing need to speed up the clearance of cargoes at boundary control points. He pointed out that Shenzhen had already introduced an automated vehicle clearance system in 2001. He questioned why the feasibility study on automated vehicle clearance system was to commence in 2004 while implementation was to be made in 2006-07.

8. DS for S3 responded that the Administration recognised the importance of speeding up the clearance of goods vehicles at boundary control points. A "one-stop shop" arrangement for the clearance of these vehicles was already on trial at the Lok Ma Chau Boundary Control Point. The Administration was also seriously considering

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extending the operating hours of boundary control points. Assistant Director of Immigration (Information Systems) (AD of Imm(IS)) added that the implementation programme annexed to the Administration's paper was recommended by the consultant commissioned to conduct a review on the ISS of ImmD. According to the consultant, the projects had to be rolled out in a structured manner to achieve synergy. The timetable for implementation of automated vehicle clearance took into account the introduction of smart identity (ID) card, which was scheduled for mid-2003. The Administration had plans to advance the feasibility study for the automated vehicle clearance system to 2002 and the implementation to 2004-05.

9. The Deputy Chairman considered that the implementation of the automated vehicle clearance system should be advanced to 2003-04 to tie in with the introduction of the smart ID card. AD of Imm(IS) responded that the Administration recognised the need to expedite the implementation of the automated vehicle clearance system. He pointed out that as ISS-2 would involve the implementation of 30 projects within a period of six years, it was important for implementation to be effected in a structured manner so as to ensure compatibility between different systems and the adaptation of staff members to the new systems.

10. In response to Dr LUI Ming-wah's question about the projects under ISS-2 that were more critical, AD of Imm(IS) said that the most critical projects were the six projects under the Information Technology (IT) Infrastructure Upgrade Programme and the Immigration Control Automation System (ICAS) Enhancement Programme. As there were currently 10 immigration control points and the new systems had to be phased in to avoid disruption to existing operations, the replacement of critical systems would take a longer time. It was expected that replacement of the critical systems would be completed in early 2004 and automated passenger clearance would be introduced in late 2004. Dr LUI Ming-wah considered that the full implementation of ISS-2 should be completed in 2003-04. He said that the Administration should revise its implementation plan for further discussion by the Panel.

11. Dr LUI Ming-wah questioned why a feasibility study on automated vehicle clearance system was necessary when such a system was already in use in other places and countries. AD of Imm(IS) responded that the proposed feasibility study would not only examine the feasibility of the technologies involved but would also ascertain the project requirements and impacts as well as determine the costs and benefits. It would also provide a reliable base for submission of funding applications.

12. Mr IP Kwok-him shared the view that the implementation of ISS-2 should be expedited. He pointed out that the increase in the volume of cargo traffic at boundary control points was even more rapid than the increase in passenger traffic. He questioned why the automated vehicle clearance system was to be introduced later than the automated passenger clearance system. He considered it unnecessary for smart ID cards to be in place before the automated vehicle clearance system was introduced.

13. DS for S3 responded that the Administration was reviewing the priority of

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projects under ISS-2 and examining ways of facilitating vehicle clearance at boundary control points. There would be merits in using smart ID cards for automated vehicle clearance at boundary control points. Nevertheless, the Administration would examine whether the introduction of such a system could be further advanced.

14. Ms Emily LAU said that while the implementation of ISS-2 should be expedited, it should not be made through simplifying or waiving necessary procedures. She considered that the Administration should address Members' concerns before submitting the funding proposal to FC.

15. Ms Emily LAU expressed concern that while the Administration claimed in its paper that the first ISS had brought about savings in manpower, there were recent complaints from frontline immigration officers about insufficient time to have their lunch or dinner. She considered that frontline immigration manpower at boundary control points should be strengthened, if necessary.

16. AD of Imm(IS) responded that ImmD regularly reviewed the duty rosters of the frontline staff. At some control points, the meal breaks of staff coincided with the peak traffic periods. In order to avoid long waits by passengers, efforts were being made to re-design the duty rosters with a view to ensuring adequate manning of clearance counters during those periods. The idea was not to reduce the time for lunch or dinner, but to adjust the meal break hours to meet service demands. He continued that when the automated passenger clearance system was put into operation in the future, the pressure on the frontline staff would be much relieved as it would enable one immigration officer to supervise several counters.

17. The Deputy Chairman expressed concern that with the Administration's implementation plans and the rapid increase in passenger flow at the boundary control points, the Administration would have to strengthen its frontline manpower in the coming few years but finding itself faced with the problem of excessive manpower after the automatic passenger and vehicle clearance systems came into operation. He said that the problem could be addressed through the early introduction of automatic clearance systems.

18. DS for S3 responded that it was too early to say whether the problem of manpower redundancy might arise, as additional manpower would be needed to cope with the opening of more boundary control points in future. AD of Imm(IS) added that majority of the staff savings arising from implementation of ISS-2 concerned the back-room supporting personnel such as those responsible for managing records. In other words, the 425 posts identified for deletion would be largely different from those required for operating the new boundary control points.

19. In response to the Chairman's question about paragraph 2 of the Administration's paper, AD of Imm(IS) explained that the implementation of the first ISS had brought about productivity gains that enabled 613 posts to be deleted. The implementation of ISS-2 would enable a further deletion of 425 posts. The Chairman

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requested the Administration to provide information on the deletion of posts resulting from the implementation of ISS-2 and the timing as well as the number of new posts to be created as a result of the opening of new boundary control points.

20. The Chairman asked the Administration to consider the views of Members and provide an updated implementation plan of ISS-2 for discussion at the Panel meeting in December before submitting the funding proposal to FC for consideration.

IV. Immigration policy on adopted children

(LC Paper Nos. CB(2) 179/01-02(03) and CB(2) 244/01-02(01))

21. At the invitation of the Chairman, DS for S3 briefed Members on the Administration's immigration policy on adopted children. He stressed that the Administration would handle all adopted children cases in accordance with the law and the Court of Final Appeal's (CFA's) ruling in the TAM Nga-yin case on 20 July 2001. He informed Members that the Mainland authorities had, with effect from 1 November 2001, raised the age limit for children applying to join their parents in Hong Kong from 14 to 18 years of age. Thus, children aged 18 or below could submit application under the One-way Permit (OWP) scheme to join their parents in Hong Kong, while children aged 19 or above could apply to take care of their parents aged 60 or above who had no other children in Hong Kong.

22. DS for S3 said that Mainland children who claimed to be adopted children of Hong Kong permanent residents and who had entered Hong Kong illegally or overstayed should return to the Mainland to apply for OWP from the relevant Mainland authorities.

23. The Chairman pointed out that according to the submission of the Society for Community Organisation (SOCO), only adopted children who were orphans and had no one to depend on before adoption were eligible to apply for an OWP. He asked whether this was a policy of the Mainland authorities.

24. Assistant Director of Immigration (Visa and Policies) (AD of Imm(VP)) responded that according to the Adoption Laws of the People's Republic of China, minors under the age of 14 and who fell within one of the following categories were eligible for adoption -

- (a) orphans bereaved of parents;
- (b) abandoned infants or children whose biological parents could not be ascertained or found; and
- (c) children whose parents were unable to rear them due to unusual difficulties.

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At the request of the Chairman, AD of Imm (VP) agreed to verify with the Mainland authorities the policy quoted in the submission of SOCO and provide a written reply.

25. Referring to the 60 cases referred to in paragraph 2 of the Administration's paper, Mr CHEUNG Man-kwong asked about the number of cases that were similar in nature to the TAM Nga-yin case and whether the cases would be treated in a manner similar to the case of TAM Nga-yin. He added that to his knowledge, OWP applications were assessed under a Points System in which an application submitted at an earlier time would be awarded more points. As the Mainland authorities had ceased accepting OWP applications from adopted children for a period of time, he considered that extra points should be awarded to compensate the period for which OWP applications were not accepted from adopted children.

26. Mr CHEUNG Man-kwong further said that a number of adopted children were originally unattended orphans in the Mainland. These children would face a difficult life if repatriated to the Mainland. He asked whether the Administration would consider allowing these children to join their adopters in Hong Kong on humanitarian grounds.

27. DS for S3 responded that under existing policy and in line with Article 22(4) of the Basic Law (BL 22(4)), all Mainland residents who wished to enter Hong Kong for settlement had to submit applications to the relevant Mainland authorities under the OWP scheme. Requiring all applications to be submitted in accordance with the OWP scheme was fair to all applicants under the scheme, under which applications from Mainland residents born of Hong Kong residents were also processed.

28. AD of Imm(VP) responded that among the 60 screened cases referred to in paragraph 2 of the Administration's paper, only two cases might be similar to the case of TAM Nga-yin in that an application for OWP was claimed to have been previously submitted. In a majority of the cases, adoption certificates issued by the relevant Mainland authorities or social welfare institutions could be produced. However, there were also a quarter of the cases where no documentary evidence could be produced. He stressed that the OWP scheme was a scheme under the jurisdiction of the Mainland. To his knowledge, applications were processed in accordance with the order of submission under the scheme.

29. In response to the Chairman's question about the number of orphans among the 60 screened cases, AD of Imm(VP) said that while such information was not maintained by the Administration, it could be noted that more than half of the children concerned were aged over 18.

30. The Chairman asked whether adopted children who had no one to depend on in the Mainland would have to return to the Mainland and apply for an OWP. DS for S3 reiterated that the Administration would comply with and enforce the judgment given by CFA on 20 July 2001 that persons adopted by Hong Kong permanent residents within BL 24(2)(1) or 24(2)(2) were not eligible for right of abode under BL 24(2)(3).

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All Mainland residents who wished to enter Hong Kong for settlement therefore had to apply for an OWP from the relevant Mainland authorities.

31. Miss Margaret NG declared interest as one of the legal representatives of TAM Nga-yin. She said that although CFA ruled that children adopted in the Mainland were not eligible for right of abode under BL 24(2)(3), it should be noted that local legislation on adoption provided that an adopted child had the same rights as a child born of his parents. She said that as adopted children of foreign nationality were allowed to apply to join their adoptive parents in Hong Kong for residence as dependants under existing immigration policy, adopted children from the Mainland should also be given the same treatment.

32. Miss Margaret NG further said that education should be provided for children regardless of whether they had right of abode in Hong Kong. Her view was shared by Mr CHEUNG Man-kwong. Mr CHEUNG added that he would provide the Administration with a list of children who were issued a Recognisance Form but not allowed to study in Hong Kong.

33. DS for S3 said that there was a large number of Mainland residents who wished to apply to enter Hong Kong for settlement. Thus, different arrangements were formulated in the immigration policies in respect of adopted children from the Mainland and those from overseas. If illegal immigrants and overstayers from the Mainland who claimed to be adopted children of Hong Kong permanent residents were allowed to settle in Hong Kong, it would be unfair to other persons who properly submitted applications in accordance with the OWP scheme. It would also convey the wrong message that Mainland residents claiming so would be allowed to settle in Hong Kong as long as they were in Hong Kong, regardless of whether they had entered Hong Kong by illegal entry or overstayed. He said that in respect of the requirement to apply for an OWP for settlement in Hong Kong, the treatment of children from the Mainland was the same in respect of adopted children and children born of their parents.

34. Miss Margaret NG pointed out that the CFA had never ruled that adopted children should be repatriated even though they had no one to depend on in the Mainland. She questioned whether adopted children from the Mainland who were already in Hong Kong should be repatriated regardless of whether they had no one to depend on in the Mainland. She added that although these children had no right of abode in Hong Kong, there was still room under existing legislation to allow them to enter, remain and receive education in Hong Kong.

35. DS for S3 reiterated that the CFA ruled in July 2001 that persons adopted by Hong Kong permanent residents within BL 24(2)(1) or 24(2)(2) were not eligible for right of abode under BL 24(2)(3). Thus, all Mainland residents who wished to enter Hong Kong for settlement had to apply for an OWP from the relevant Mainland authorities. He said that it was necessary for the Administration to spell out its position clearly so that Hong Kong residents who wished to adopt children in the Mainland

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would consider the matter seriously before making a decision.

(As the Chairman had to leave the meeting for some urgent business, the Deputy Chairman took the chair of the meeting at 4:00 pm.)

36. Mr Howard YOUNG asked whether additional points could be awarded under OWP scheme for children who could not submit an OWP application before 1 October 2001.

37. DS for S3 responded that there had been improvements in the transparency of the OWP scheme in recent years. Nevertheless, the Administration would convey to the Mainland authorities members' views on the OWP scheme.

38. Miss Cyd HO said that under the United Nations Convention on the Rights of the Child (UNCRC), Hong Kong had an obligation to protect the rights and interests of children irrespective of whether they were adopted or born of their parents and whether they had right of abode in Hong Kong. She questioned whether the repatriation of adopted children who had no one to depend on in the Mainland was consistent with Hong Kong's obligation under UNCRC.

39. DS for S3 reiterated that if illegal immigrants and overstayers from the Mainland who claimed to be adopted children of Hong Kong permanent residents were allowed to settle in Hong Kong, it would be conveying the message that Mainland residents claiming so would be allowed to settle in Hong Kong as long as they were in Hong Kong regardless of whether they had entered Hong Kong through illegal entry or overstayed. He stressed that Hong Kong would fulfil its obligations, where any, under UNCRC. However, there were precedents where children without ROA in Hong Kong were repatriated. The Deputy Chairman requested the Administration to provide a written response on whether it had contravened its obligations under UNCRC.

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(Post meeting note : The response provided by the Administration was circulated vide LC Paper No. CB(2)397/01-02 on 16 November 2001.)

40. In response to Ms Audrey EU's question about the Administration's response to the recommendations set out in paragraphs 3 to 5 of page 2 of the submission from SOCO, DS for S3 said that -

- (a) the discretion of the Director of Immigration (D of Imm) to allow a child to remain in Hong Kong would be exercised only under exceptional circumstances;
- (b) the Administration would convey to the Mainland authorities members' views about the Points System under OWP scheme; and
- (c) as adopted children who were illegal immigrants and overstayers would

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be repatriated, it would be inappropriate to provide education to these persons. However, there were individual cases where the children concerned were allowed to receive education in Hong Kong.

41. AD of Imm (VP) said that TAM Nga-yin had actually submitted an application for OWP a long time ago. Only two out of the 60 screened cases might be similar to the case of TAM Nga-yin in that an OWP application was claimed to have been previously submitted to the relevant Mainland authorities.

42. Ms Audrey EU asked whether an OWP application submitted by an adopted child aged 16 would become invalid when he attained the age of 18. Principal Immigration Officer (Visa Control) (PIO(VC)) explained that under the OWP scheme, children aged 18 or below might apply to join their parents in Hong Kong, while those aged 19 or above could apply to take care of their parents aged 60 or above who had no other children in Hong Kong.

43. Mr Albert HO asked whether the Administration would exercise its discretion, as it had done so in the case of TAM Nga-yin, in the 100 or so cases referred to in paragraph 2 of the Administration's paper. DS for S3 said that whether discretion would be exercised by D of Imm would depend on the circumstances of each case.

44. Mr Andrew WONG asked whether a child would be repatriated only after ImmD had confirmed that there was someone to receive the child in the Mainland.

45. AD of Imm(VP) responded that ImmD would, if it considered that humanitarian grounds existed, liaise with the Mainland families concerned for the reception arrangements before repatriation.

46. Ms Emily LAU said that discretion should be given to allow adopted children who were orphans before adoption to remain in Hong Kong on humanitarian grounds. She asked about the number of Mainland children adopted by Hong Kong permanent residents.

47. DS for S3 responded that there was no statistics on the number of children referred to by Ms Emily LAU. He stressed that the Administration's position was clear and fair. It would not create the false expectation that Mainland residents claiming to be adopted children of Hong Kong permanent residents would be allowed to settle in Hong Kong as long as they were in Hong Kong regardless of whether they had entered Hong Kong through illegal entry or overstayed.

48. Ms Emily LAU asked whether the cases referred to in the submission of SOCO were among the 60 cases screened by ImmD and whether discretion would be granted to the children concerned. DS for S3 responded that discretion was exercised by D of Imm having regard to the circumstances of each case and that no generalisation would be possible.

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49. Mrs Selina CHOW said that humanitarian considerations should be given by the Administration before a child was repatriated to the Mainland.

V. iPermit for Taiwan Residents

(LC Paper No. CB(2) 1790/01-02(04))

50. Members noted the Administration's paper on the new iPermit scheme for visitors from Taiwan.

51. Mr Howard YOUNG said that the travel industry welcomed the iPermit scheme, the introduction of which was a little late. He said that an applicant should be allowed to submit an application through a travel agent in Taiwan besides submitting an application through an authorised airline office in Taiwan.

52. DS for S3 responded that with appropriate arrangements between the airlines and travel agents, an applicant should be able to apply for an entry permit through a travel agent in Taiwan.

53. Mr Howard YOUNG asked whether a visitor who had submitted an application through Airline A but travelled by Airline B should collect the entry permit at the airport from the desk of Airline A or Airline B. He said that if a visitor who travelled with Airline B was required to collect the permit from Airline A, steps should be taken to ensure that the visitor would not arrive at the desk of Airline A to find that it had closed because its flights of the day had all arrived for some time.

54. PIO (VC) noted the views of Mr Howard YOUNG. He said that the detailed arrangements were still to be determined in consultation with the airlines. The initial plan was to have the permit collected by a visitor upon arrival at a suitable area in the airport before he proceeded to the immigration counters. Alternatively, the permit could also be delivered to the applicant prior to his departure from Taiwan.

55. Mrs Selina CHOW expressed disappointment that the iPermit scheme could not be implemented in January 2002 and asked about the time for the implementation of the new scheme. She said that to her knowledge, the airlines were reluctant to process the applications under the iPermit scheme. She hoped that the Administration would resolve the problem with the airlines. To attract visitors from Taiwan, she considered that the validity period of the permit should be extended from two months to one year and the number of visits allowed should be relaxed from two trips to four trips, while the maximum stay of 14 days for each landing could be maintained. She added that there were too many types of entry permits for Taiwan residents.

56. DS for S3 responded that the iPermit scheme was scheduled to be implemented in April 2002. The Administration would examine whether implementation could be advanced to March 2002. It was intended that the permit would be valid for two months and good for two visits. More frequent visitors could apply for a multiple

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Taiwan Visit Permit valid for one year or three years. He added that the amount of information required for the assessment of an application differed with the length of validity of the permit and the number of trips allowed. As a permit issued under the scheme had to be issued within a short period of time, the information required was comparatively less and the validity period of two months was appropriate. Nevertheless, the Administration would consider the views of Mrs Selina CHOW. PIO(VC) added that the system design work, which involved the development of 150 computer programmes among which 80 had been completed, was scheduled to be completed by January 2002. ImmD would seek to complete the development of these programmes at the earliest possible time.

57. Mr Howard YOUNG suggested that the iPermit scheme should be extended to cover all types of entry permits in the longer term.

58. The meeting ended at 5:05 pm.

Legislative Council Secretariat
27 November 2001