

# 立法會

## *Legislative Council*

LC Paper No. CB(2)37/03-04

(These minutes have been  
seen by the Administration)

Ref : CB2/PL/AJLS

### **Panel on Administration of Justice and Legal Services**

#### **Minutes of meeting held on Tuesday, 29 July 2003 at 4:30 pm in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)  
Hon Albert HO Chun-yan  
Hon Martin LEE Chu-ming, SC, JP  
Hon James TO Kun-sun  
Hon Miriam LAU Kin-ye, JP  
Hon Mr Ambrose LAU Hon-chuen, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)  
Hon CHAN Kam-lam, JP
- Public officers attending** : Item III  
  
Mr Andrew H Y WONG  
Director of Administration  
  
Mr S Y CHAN  
Director of Legal Aid  
  
Mr Benjamin CHEUNG  
Deputy Director of Legal Aid  
  
Mrs Fanny YU  
Deputy Director of Legal Aid

Mr CHAN Yum-min, James  
Assistant Director of Administration

Item IV

Mr David LEUNG  
Deputy Director of Administration (Acting)

Ms Lena CHI  
Deputy Law Officer (International Law)

Mr Tony NGUYEN  
Director of Protocol

**Attendance by  
invitation** :

Item III

Hong Kong Bar Association

Mr Andrew LI

Mr Donald LEO

Mr Andrew BRUCE, SC

The Law Society of Hong Kong

Mr Christopher KNIGHT

Mr Kevin STEEL

**Clerk in  
attendance** :

Mrs Percy MA  
Chief Assistant Secretary (2)3

**Staff in  
attendance** :

Mr Arthur CHEUNG  
Senior Assistant Legal Adviser 2

Mr Paul WOO  
Senior Assistant Secretary (2)3

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Action

**I. Confirmation of minutes of meeting**  
(LC Paper No. CB(2)2889/02-03)

The minutes of the meeting held on 26 May 2003 were confirmed.

**II. Information papers issued since the last meeting**

2. Members noted the following papers which had been issued -

- (a) LC Paper No. CB(2)2623/02-03(01) - Letter dated 20 June 2003 from the Administration providing three copies of UK legislation which made provision for tribunal hearings to take place in the absence of an applicant and his representative and ancillary matters;
- (b) LC Paper No. CB(2)2635/02-03(01) - Response of the Hong Kong Bar Association on "Consultancy Report on System for the Determination of Judicial Remuneration";
- (c) LC Paper No. CB(2)2670/02-03(01) - Paper provided by the Administration in response to issues raised at the meeting on 28 April 2003 on "Payment of compensation to persons wrongfully imprisoned";
- (d) LC Paper Nos. CB(2)2710/02-03(01) to (02) - Replies from the Judiciary Administration and the Director of Administration on "Procedure for endorsement of appointment and removal of judges by the Legislative Council under Article 73(7) of the Basic Law";
- (e) LC Paper No. CB(2)2814/02-03(01) - Reply dated 28 June 2003 from the Director of Administration to Mr CHAN Siu-lun's letter dated 4 May 2003 on "Review of section 18(3) of the Hong Kong Court of Final Appeal Ordinance";
- (f) LC Paper Nos. CB(2)2835/02-03(01) to (03) - Letter dated 4 July 2003 from the Law Society of Hong Kong and a copy of section 6 of Cap. 159 and Form 2;
- (g) LC Paper No. CB(2)2854/02-03(01) - Letter dated 14 July 2003 from the Law Society of Hong Kong on "Consultancy Report on System for the Determination of Judicial Remuneration";

Action

- (h) LC Paper No. CB(2)2880/02-03(01) - Response of Judiciary Administration on "Operation of youth courts"; and
- (i) LC Paper No. CB(2)2887/02-03(01) - Paper provided by the Judiciary Administration on the outcome of its review on "Requirement of Counsel's Certificate in the District Court".

3. On (i) above, the Chairman informed members that the Judiciary Administration had recommended that the existing requirement of counsel's certificate in the District Court be retained, and the existing Rule be revised to clarify how the threshold of HK\$150,000 for a counsel's certificate should apply to the different situations covering different parties obtaining the costs order. Subject to the Panel's view, the Administration would submit the relevant amendments to the Rules of the District Court to the Legislative Council (LegCo) for negative vetting. Members noted the Administration's proposal.

**III. Review of provision of legal aid services**

(LC Paper Nos. CB(2) 1542/02-03(01); 2581/02-03(01) to (03); 2639/02-03(01); 2888/02-03(01); 2908/02-03(01); 2646/01-02(01) and 2784/01-02(01))

Five-yearly review of the criteria for assessing financial eligibility of legal aid applicants and review of the Supplementary Legal Aid Scheme (SLAS)

4. At the invitation of the Chairman, Director of Administration (D of A) briefed members on the Administration's paper (LC Paper No. CB(2)2581/02-03(02)). The paper reported on the outcome of firstly, the five-yearly review of the criteria for assessing the financial eligibility of legal aid applicants, and secondly, the review on the scope and operation of SLAS, in response to the Panel's suggestion that the Administration should consider introducing changes to SLAS to improve access to the Scheme by legal aid applicants.

5. Regarding the five-yearly review of the criteria for assessing the financial eligibility of legal aid applicants, the review covered the following major issues -

- (a) approach for assessing financial capacity;
- (b) method of computing disposable income;
- (c) method of computing disposable capital;
- (d) resources of spouse;

Action

- (e) resources of an applicant who was an infant; and
- (f) applicant in representative or fiduciary capacity.

6. As regards SLAS, the Administration's review covered the following issues -

- (a) raising the financial eligibility limit for SLAS;
- (b) reducing the contribution rate under SLAS;
- (c) adopting a sliding scale for SLAS contribution rate;
- (d) payment of SLAS contribution by instalments; and
- (e) enlarging the scope of SLAS.

7. The Chairman drew members' attention to paragraph 68 of the Administration's paper, which summarized the Administration's proposals arising from the reviews of the assessment criteria for financial eligibility of SLAS.

Views of the Hong Kong Bar Association  
(LC Paper No. CB(2)2639/02-03(01))

8. At the invitation of the Chairman, Mr Donald LEO and Mr Andrew BRUCE introduced the Bar Association's submission. They highlighted the gist of the submission as follows -

- (a) the scope of SLAS should be expanded to provide a broader funding for meritorious claims to assist persons who were neither eligible for legal aid under the Ordinary Legal Aid Scheme (OLAS) nor able to afford the costs of conducting litigation on a private basis. The scope of SLAS could be enlarged to cover, e.g. cases involving persons or classes of persons who had suffered significant injury or injustice; class or group litigation arising from major incidents such as disasters and employer insolvencies; and claims which had a reasonable prospect of success in recovering damages and costs etc;
- (b) the Bar Association welcomed the Administration's proposal to include, as a deductible allowance from an applicant's disposal income, the amount incurred to provide for the care of dependants living with the applicant, in addition to infant dependants, and to extend this type of allowance also to self-employed applicants. However, the Administration should explain the criteria for

Action

claiming such allowance clearly to the applicants to avoid misunderstanding;

- (c) the Bar Association also welcomed the Administration's proposal to exclude insurance monies paid to an applicant for accident-related injuries in assessing the disposal capital of the applicant. However, the Bar Association had doubts about the necessity to add the restriction that the expenses deductible must be reasonably likely to be incurred in the next 12 months or such longer period as might be certified by a registered medical practitioner, subject to a maximum period of three years from the date of application. In the views of the Bar Association, the restriction would unfairly penalize those who were prudent enough to take out longer-term insurance cover for personal accidents;
- (d) borrowed money should be excluded in calculating disposal capital of applicants to reflect their true financial resources. Likewise, the negative value of the main dwelling of an applicant should be taken into consideration in assessing the disposal capital of the applicant; and
- (e) the existing system of remunerating counsel/solicitors engaged by Legal Aid Department (LAD) in criminal legal aid cases had become out-moded. The system failed to take into account the length and complexity of criminal trials nowadays, and did not reward good work undertaken by lawyers in handling such cases. At present, payment of fees to counsel/solicitors was based predominantly on court attendance, and counsel/solicitors were not remunerated for the time and effort they spent in pre-trial preparation work which, if properly carried out, could substantially reduce the length of trial. The present system therefore unfairly discriminated against lawyers who worked laboriously with the intention of providing good quality and efficient legal services to their clients. The two branches of the legal profession shared the view that the system should be reviewed in the context of the Legal Aid in Criminal Cases Rules by the Rules Committee set up under the Criminal Procedure Ordinance.

Views of the Law Society of Hong Kong  
(LC Paper No. CB(2)2908/02-03(01))

9. At the invitation of the Chairman, Mr Christopher KNIGHT briefed members on the Law Society's submission. In gist, the Law Society held the same view as the Bar Association that the system for remunerating legal

Action

practitioners undertaking criminal legal aid cases, which was bound by the Legal Aid in Criminal Cases Rules enacted more than 30 years ago, was outdated and should be reviewed. The present fee payment system was not in the interests of providing efficient and effective legal services because it only took into account the number of days in court, and did not give consideration to the proper preparation of a case for trial which required solicitors acting for the aided persons to go through vast volume of files and documents in detail. The system also gave rise to an absurd situation in which a less conscientious solicitor doing less work in preparation being rewarded far more due to the lengthening of the trial. The Law Society considered that the criminal legal aid fee system should be reviewed by the Rules Committee, which had representatives from the Judiciary, LAD, the Department of Justice (DoJ), as well as the two legal professional bodies.

Issues raised by members

*Scope of SLAS*

10. Ms Audrey EU agreed with the view that the scope of SLAS should be expanded. She opined that cases which were generally simple and had a reasonably good chance of success in recovering compensation or damages might be included in the Scheme, e.g. claims against insurance companies in accordance with the terms of a valid insurance policy. She said that she had come across a lot of complaints about difficulties in pursuing claims against insurance companies because of the absence of legal aid.

11. Ms Audrey EU added that as SLAS was a self-financing scheme, to include more categories of meritorious claims which had a good chance of securing compensation or damages for the applicants would contribute to the SLAS Fund. It was also in the public interest to include such cases in SLAS.

12. In response to the views on enlarging the scope of SLAS, Director of Legal Aid (DLA) explained that to enable SLAS to remain self-financing, the scope of SLAS was confined to cases -

- (a) which deserved priority for public funding in the sense that significant injury or injustice to the individual was involved; and
- (b) which involved monetary claims and had a reasonably good chance of recovery of damages.

Existing cases so covered under SLAS included claims for damages for personal and fatal injuries, employees' compensation claims, and cases involving medical, dental as well as legal professional negligence. The need to limit the scope of SLAS was to ensure that the SLAS Fund was able to build up a healthy balance collected from damages awarded to compensate

Action

aided persons whose lives were generally affected and in many cases devastated by the negligent acts of others.

13. DLA further advised that the current rate of recovery of compensation or damages for successful SLAS applicants was satisfactory. It was primarily attributable to the fact that most of the claims were covered by insurance as required by law, with other additional safeguards against non-recovery of damages such as the Motor Insurers' Bureau and the Employees Compensation Assistance Fund Board. The contributions to the SLAS Fund, which mainly came from aided persons in personal injury cases, were used to assist applicants in other proceedings under the same Scheme. Regarding the proposal to extend the scope of SLAS to cover other types of cases, DLA said that its implications on the stability and financial viability of SLAS, and how the interests of the existing categories of aided persons might be affected thereby, would have to be carefully examined. To ensure that the overall financial viability of SLAS would not be jeopardized, the Administration did not consider it justified using contributions recovered from the existing SLAS cases to subsidize other types of cases that did not satisfy the aforesaid principle for inclusion in SLAS.

14. Ms Audrey EU stressed that she was not proposing to include in SLAS complicated cases which had a high risk of losing in court, but only those categories of cases which were relatively straight-forward and non-controversial. In her view, claims against insurance companies should fall within those categories. She added that after all, DLA would have to look carefully into the merits of a case before deciding whether or not legal aid should be granted.

15. Mr James TO pointed out that some companies acted as "agents" for legal practitioners providing legal assistance to clients who were not eligible for legal aid in pursuing their claims for damages. These companies operated under a conditional fee system whereby the clients would not have to pay any fees in the event of losing the case. Mr TO said that in considering whether the scope of SLAS should be expanded, it would be helpful for the Administration to look into the nature of the cases handled by these companies to see if it would be appropriate to include such cases in SLAS.

16. Mr Martin LEE said that when SLAS was first introduced 20 years ago, the purpose of it was to expand the scope of legal aid in order to assist those who were not entitled to legal aid under OLAS but were unable to meet the costs of conducting litigation on their own. SLAS was intended to operate on a self-financing basis, but not with a view to making profit. He opined that to provide the best possible legal aid services to those who were in need, the scope of SLAS should be suitably expanded. The Administration should adopt a more liberal thinking in reviewing the administration of legal aid under SLAS so that it could best meet the current needs of the public.



Action

17. D of A reiterated that the Administration's major concern was that the long-term financial viability of the SLAS Fund should be maintained. In considering any expansion to the scope of SLAS, the fundamental principle governing the types of cases which should be included under SLAS as well as the requirements of merits and means testing for the granting of legal aid would be adhered to. The Administration was mindful of the risk that if a major case was lost in the court, it would incur payment of huge legal costs and hence adversely impact on the SLAS Fund and SLAS applicants who were in need of legal assistance. He said that the Administration did not consider that there was a pressing need to enlarge the scope of SLAS at this stage.

Admin

18. On Mr James TO's earlier remarks, D of A further advised that the Law Reform Commission (LRC) was currently considering whether in the Hong Kong circumstances conditional fee arrangements were feasible and should be permitted for civil cases. The Administration would make reference to the outcome of LRC's study in due course in considering whether changes should be introduced to the existing system of administration of legal aid.

19. Mr Andrew LI expressed the view that with the SLAS Fund maintaining a surplus of about \$80 million, there should be room for expanding the scope of SLAS.

Admin

20. The Chairman requested the Administration to further consider the proposal of expanding the scope of SLAS in the light of the views expressed by members. On the question of financial viability of SLAS, the Chairman requested the Administration to provide more detailed reasons to substantiate its concern that using the contributions paid to the SLAS Fund to subsidize other types of cases, such as the cases suggested by Ms Audrey EU, would affect the financial viability of SLAS.

*Discretion of DLA to waive the upper limit of means test*

21. Mr Albert HO pointed out that the only exception in civil cases where DLA had a discretion to waive the financial eligibility limit for legal aid was when human rights issues were involved. In criminal cases, a judge had power to grant legal aid and exemption from the means test despite DLA's refusal on grounds of means. However, such power could only be exercised in respect of cases of murder, treason or piracy with violence. Mr HO said that in serious criminal cases or complicated cases with protracted hearings, it was not likely that a person could afford the costs of litigation on a private basis, even though his financial resources exceeded the financial eligibility limit of means test. He opined that to protect the fundamental right of access to justice, consideration should be given to provide DLA with a greater discretionary power to waive or relax the financial eligibility limit in

Action

deserving cases.

22. DLA said that in respect of criminal cases, he could also exercise discretion to waive the financial eligibility limit for legal aid.

23. D of A said that as legal aid was funded by public money, there had to be proper prioritization of the use of resources, and legal aid had to be targeted at those of limited means. Means assessment of legal aid applicants was therefore one of the two cardinal criteria for the granting of legal aid. In accordance with the policy intention, the exercise of DLA's discretion to waive the financial eligibility limit should be very restrictive, and it would be undesirable to extend the exception to other cases solely on the basis of their complexity or length of proceedings.

Admin

24. The Chairman requested the Administration to provide information on past criminal cases where DLA had granted legal aid to the applicants whose financial resources exceeded the upper financial eligibility limit for legal aid.

Admin

25. The Chairman said that the right of legal representation was guaranteed under the Hong Kong Bill of Rights Ordinance (BORO). Also, the legal aid policy in Hong Kong was to ensure that no one with reasonable grounds for taking legal action in a Hong Kong court was prevented from doing so because of a lack of means. She said that as pointed out by Mr Albert HO, a person with financial resources exceeding the upper limit of the means test could still be unable to conduct litigation on his own in view of the huge legal costs involved. The Chairman asked the Administration to explain whether refusal of DLA to grant legal aid on grounds of means to a person who was charged with a serious criminal offence and who was unable to meet the costs of litigation would contravene the BORO.

*Contribution in cases involving human rights issues*

26. Mr Albert HO and Mr Martin LEE opined that the maximum rate of contribution from a successful litigant in proceedings involving human rights issues, which ranged up to 67% of the person's financial resources, should be lowered.

27. D of A explained that the amount of contribution payable was determined by the amount of financial resources of the aided person and the rate of contribution applicable. Different rates of contribution were specified in the Legal Aid (Assessment of Resources and Contributions) Regulations for different brackets of financial resources. For financial resources exceeding the upper financial eligibility limit under OLAS (i.e. 169,700), and where DLA's discretion to waive the limit was exercised, the rate of contribution ranged from 30% to 67%. The maximum rate of 67% only applied to an aided person with financial resources exceeding \$1,200,000.

Action

*Interest accrued on DLA's first charge*

28. Mr Albert HO criticised that interest on DLA's first charge on property recovered for an aided person, which accrued at the rate of 10% per annum, would impose a tremendous financial burden on the aided person. He said that the rate was totally unjustified as it was far above the existing market rate.

29. DLA said that the Legal Aid Ordinance provided that DLA was entitled to a first charge on any property recovered or preserved for an aided person. Interest only accrued on DLA's first charge where the property recovered or preserved was used as a home for the aided person or his dependants and DLA agreed to defer enforcing the first charge, e.g. by sale of the property. The interest was payable at the rate of 10% per annum from the date on which the charge was first registered. DLA further advised that following enactment of the Legal Aid (Amendment) Bill in July 2000, DLA was given the discretion to waive or reduce the interest accrued if he was satisfied that it would cause serious hardship to the aided person, or that it was just and equitable to do so in the circumstances. DLA added that payment of accrued interest at similar rate also applied in other cases, such as payment charged by the Government for removal of unauthorized or illegal building structures.

30. Mr Albert HO said that in many cases, the aided persons and their dependents who had their property recovered or preserved could only live on small financial support such as maintenance payments. It was beyond their means to pay interest at such a high rate. He considered that the interest rate should be reviewed. Mr James TO agreed with Mr HO. He said that as DLA already had a first charge on the property recovered or preserved and DLA had the right to enforce the first charge, there would be little risk of LAD incurring a loss. He considered that the interest rate should be lowered.

Admin

*Defamation actions*

31. Mr Martin LEE asked the Administration to reconsider the proposal to expand the scope of legal aid to cover defamation actions. He pointed out that a large part of defamation cases involved the issue of freedom of speech. A major difference between defamation litigation in Hong Kong and elsewhere was that in Hong Kong, action instituted by a plaintiff for libel was usually against the reporter or columnist personally, not against the publisher. He said that in the absence of legal aid, the defendant would have serious difficulty, financially or otherwise, in defending himself in court.

32. Mr Martin LEE further referred to paragraph 9 of the Administration's paper (LC Paper No. CB(2)2581/02-03(03)) which stated that legal aid was not available for defamation in many foreign jurisdictions including England

Action

and Wales, Scotland, Ireland, New South Wales of Australia, Ontario of Canada, and Singapore. He asked whether legal aid was available for defamation cases in other jurisdictions, e.g. the other states of Australia and Canada, and Malaysia. D of A replied that on the basis of information currently available, the Administration was not aware of other jurisdictions which included defamation proceedings in their legal aid schemes.

*Unbundled legal assistance*

33. The Chairman noted that the Administration had responded in its paper (paragraph 65 of LC Paper No. CB(2)2581/02-03(03)) that it would further consider the Panel's suggestion that the legal aid regime should be restructured to provide for "unbundled legal assistance", taking into account development in respect of the Civil Justice Reform concerning measures to help unrepresented litigants. The Chairman said that the concept of unbundled legal assistance was that private lawyers providing advice and assistance at key points in the proceedings would be useful to help litigants to represent themselves. It would also enable LAD to accurately assess the merits of a case at different stages of the proceedings and accordingly determine whether legal aid should continue to be granted to the aided person. The Chairman requested the Administration to further respond to the proposal in due course.

Admin

*Legal aid fees in criminal cases*

34. Mr Martin LEE, Ms Audrey EU and Mr Albert HO said that they agreed with the views of the two legal professional bodies that the existing system of payment of fees in criminal legal aid cases warranted a review in the context of the Legal Aid in Criminal Cases Rules. Mr Martin LEE said that the existing method of remuneration was unfair to diligent defense counsel and solicitors who worked in good faith in providing good legal services to their clients.

35. In response to the Chairman, D of A advised that both DoJ and LAD used the same scale of fees in engaging private legal practitioners to undertake litigation work in criminal cases. Mr Andrew BRUCE said that for the more complicated cases, counsel could negotiate with DoJ to increase the amount of fees payable. DLA supplemented that the Legal Aid in Criminal Cases Rules provided that if in the opinion of a judge a case was of exceptional length or complexity, the judge might so certify and thereupon LAD could increase the amount of fees payable to counsel/solicitors.

36. The Chairman requested the Administration to explain the difference between DoJ and LAD in relation to the procedure and authority for increasing the fees payable to counsel/solicitors engaged for litigation work in criminal cases.

Admin

Action

37. The Chairman noted that the Bar Association and the Law Society had formed a joint working party to review the criminal legal aid fees system. In response to the Chairman, D of A advised that the Administration would consider the views and recommendations of the joint working party upon receipt of its review report, and provide a response to the issues raised therein in due course.

Admin

38. The Chairman considered that the issue of legal aid fees in criminal cases should be followed up by the Panel as a separate item in due course. Representatives of the two legal professional bodies and the Rules Committee would be invited to discuss the item.

Way forward

39. The Chairman suggested and members agreed that the item on review of legal aid services should be brought up for further discussion at the next legislative session.

**IV. Privileges and immunities conferred on consular posts and specified international organizations**

(LC Paper No. CB(2)2547/02-03(01) and 2888/02-03(02))

40. At the invitation of the Chairman, Deputy Director of Administration (Acting) (DDA(Ag)) briefed members on the Administration's paper (LC Paper No. CB(2)2547/02-03(01) and the LegCo Brief (LC Paper No. CB(2)2888/02-03(02)) which set out -

- (a) standard and additional privileges and immunities for career consular posts;
- (b) privileges and immunities for international organizations (IOs); and
- (c) proposals for enacting local legislation to set out privileges and immunities conferred on consular posts and specified IOs.

41. In relation to (c) above, the four items of subsidiary legislation, which were gazetted on 4 July 2003 and would be introduced into LegCo for negative vetting, were as follows -

- (a) the Administration of Estates by Consular Officers Ordinance (Amendment of Schedule) Order 2003 made under section 3 of the Administration of Estates by Consular Officers Ordinance (Cap. 191);

Action

- (b) the Consular Conventions (Application of Section 3) Order made under section 5 of the Consular Conventions Ordinance (Cap. 267);
- (c) the International Organizations (Privileges and Immunities) (Office of the Commission of the European Communities) Order made under section 3 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558); and
- (d) the Registration of Persons (Amendment) Regulation 2003 made under section 7 of the Registration of Persons Ordinance (Cap. 177).

42. In reply to the Chairman, DDA(Ag) advised that international agreements signed by the Central People's Government (CPG) which conferred privileges and immunities on consular posts or IOs, and their respective personnel, and which were applied to the Hong Kong Special Administrative Region (HKSAR), were given effect in Hong Kong generally by the following two national laws applicable to the HKSAR -

- (a) Regulations of the People's Republic of China Concerning Consular Privileges and Immunities; and
- (b) Regulation of the People's Republic of China Concerning Diplomatic Privileges and Immunities.

The enactment of the Consular Relations Ordinance (Cap. 557) and the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) in 2000 provided a flexible framework for the localization of the relevant international agreements signed by the CPG. With the legislative framework in place, and having regard to the common law tradition, the Administration considered that the best means of underpinning the relevant provisions in the bilateral agreements between CPG and Consular Posts/IOs was to enact local legislation setting them out expressly and specifically in the laws of Hong Kong.

43. DDA(Ag) further advised that at present, there were 11 bilateral agreements between CPG and Consular Posts/IOs, which included seven consular agreements with foreign States and four agreements with five IOs. The 11 bilateral agreements were specified at Annex B of LC Paper No. CB(2)2547/02-03(01)). The Administration had embarked on a programme of enacting local legislation, in the form of subsidiary legislation, to cover the 11 bilateral agreements. The subsidiary legislation would be introduced by batches as soon as drafting and the consultation process had been completed.

Action

44. Regarding the four items of subsidiary legislation to be introduced into LegCo, DDA(Ag) said that the three Orders set out in paragraph 41(a), (b) and (c) above sought to underpin the relevant provisions of the following two bilateral agreements -

- (a) Consular Agreement between the Government of the People's Republic of China and the Government of Canada (Article 10(3), (4) and (5) of the Agreement); and
- (b) Agreement Constituted by Exchange of Letters Between the Government of the People's Republic of China and the Commission of the European Communities Concerning the Maintenance of the Office of the Commission of the European Communities in the Hong Kong Special Administrative Region of the People's Republic of China (Articles 3, 4 and 5 of the Agreement).

The Amendment Regulation mentioned in paragraph 41(d) above, on the other hand, sought to amend the relevant provisions of the Registration of Persons Regulations so that the accredited Head and accredited members of the European Community Office, and their family members in HKSAR, might be issued with Consular Corps Identity Cards (CCICs) in the same manner as CCICs were issued to consuls, consular staff and their family members in HKSAR. DDA(Ag) advised that the three Orders would, subject to the outcome of the negative vetting procedure, come into operation on 14 November 2003, whereas the Amendment Regulation would come into operation on a date to be appointed.

45. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
9 October 2003