

**立法會**  
**Legislative Council**

Ref : CB2/PL/SE/1

LC Paper No. CB(2) 1451/02-03

(These minutes have been  
seen by the Administration)

**Panel on Security**

**Minutes of meeting held on Thursday, 20 February 2003  
at 4:30 pm in Conference Room A of the Legislative Council Building**

- Members present** : Hon LAU Kong-wah (Chairman)  
Hon James TO Kun-sun (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon CHEUNG Man-kwong  
Hon Howard YOUNG, JP  
Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon Michael MAK Kwok-fung  
Hon Audrey EU Yuet-mee, SC, JP
- Member attending** : Hon Cyd HO Sau-lan
- Members absent** : Dr Hon LUI Ming-wah, JP  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon Andrew WONG Wang-fat, JP  
Hon WONG Yung-kan  
Hon IP Kwok-him, JP
- Public Officers attending** : **Item III**  
Mrs Margaret CHAN  
Principal Assistant Secretary for Security  
  
Mr Charles WONG  
Principal Assistant Secretary for Security (Narcotics)

Mr John HUNTER  
Deputy Principal Government Counsel

Ms Manda CHAN  
Assistant Secretary for Security

**Item IV**

Mr Michael WONG  
Deputy Secretary for Security

Mr Alan CHU  
Principal Assistant Secretary for Security

Miss Winnie CHUI  
Assistant Secretary for Security

Mr H K TSOI  
Assistant Director of Immigration  
Immigration Department

Mr K H YIM  
Principal Immigration Officer  
Immigration Department

Miss Millie YIM  
Chief Immigration Officer  
Immigration Department

Mrs Antonia CHOW  
Senior Property Manager (Acquisition,  
Allocation & Disposal) Office  
Government Property Agency

**Item V**

Miss Eliza YAU  
Principal Assistant Secretary for Security (E)

Miss Vivian CHAN  
Assistant Secretary for Security (E3)

Mr LAU Sik-tim  
Chief Superintendent of Police (Support)  
Hong Kong Police Force

Mr KONG Shing-shun  
Deputy District Commander (Yau Tsim District)  
Hong Kong Police Force

**Clerk in attendance** : Ms Doris CHAN  
Chief Assistant Secretary (2) 4

**Staff in attendance** : Mr LEE Yu-sung  
Senior Assistant Legal Adviser 1

Ms Bernice WONG  
Assistant Legal Adviser 1

Miss Mary SO  
Senior Assistant Secretary (2) 8

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**I. Confirmation of minutes of previous meeting**  
(LC Paper No. CB(2)1119/02-03)

The minutes of the meeting held on 16 January 2003 were confirmed.

**II. Date of next meeting and items for discussion**  
(LC Paper Nos. CB(2)1113/02-03(01) and (02))

2. Members agreed to discuss the following items at the next regular meeting scheduled for 6 March 2003 -

- (a) Marine Police Outer Waters District Headquarters and Marine Police North Division at Ma Liu Shui, Sha Tin proposed by the Administration; and
- (b) Cross-border fishing and criminal activities of Mainland fishing vessels proposed by Mr WONG Yung-kan.

**III. Stage two anti-terrorism legislative exercise - United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003**  
(LC Paper Nos. CB(2)1113/02-03(03) and (04))

3. At the invitation of the Chairman, Principal Assistant Secretary for Security (PAS for S) introduced the Administration's paper (LC Paper No. CB(2)1113/02-03(03)) which set out the Administration's response to the following raised by members at the meeting on 16 January 2003 -

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- (a) Concerns raised in respect of the United Nations (Anti-Terrorism Measures) Ordinance (the Ordinance) (Cap. 575) before its passage, and how the Administration had addressed the concerns;
- (b) How the Administration would deal with the outstanding issues of enacting the Ordinance in the stage one anti-terrorism legislative exercise;
- (c) Whether the anti-terrorism laws in overseas jurisdictions had been revised; and
- (d) Requirements for the Canadian and Australian governments to report to their parliaments on statistics on anti-terrorism cases.

4. Mr Howard YOUNG asked whether any further legislative measures would be required to implement anti-terrorism measures, and whether the stage two exercise would enable the implementation of decisions made by organisations other than the Security Council of the United Nations for the prevention of terrorist acts. In reply to the first question, PAS for S said that the stage two exercise sought to give effect to outstanding requirements under United Nations Security Council Resolution 1373 and the Financial Action Task Force on Money Laundering Special Recommendations to freeze non-fund property of terrorists and terrorist organisations as well as two international conventions aimed at combating terrorism. In respect of the latter question, PAS for S pointed out that under section 5 of the Ordinance, the Chief Executive (CE) might make an application to the Court of First Instance for an order to specify a person not designated by any United Nations Security Council Committee as a terrorist/terrorist associate or a property as terrorist property, as the case might be.

5. Ms Cyd HO requested the Administration to include in the stage two anti-terrorism legislative exercise a requirement for the Administration to report to the Legislative Council (LegCo) statistics on anti-terrorism cases, as adopted in both Canada and Australia.

6. PAS for S responded that the Administration was prepared to report to LegCo statistics on anti-terrorism cases where available. The Administration, however, did not consider it necessary to make statutory provisions on the proposed reporting requirement in the stage two anti-terrorism legislative exercise.

7. Ms Cyd HO hoped that Members would not be pressurised, as in the stage one legislative exercise, to scrutinise the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 (the Amendment Bill). The Chairman and Ms HO also hoped that the Administration would carefully consider the timing for the introduction of the Amendment Bill into LegCo, given that Members would need to devote time to scrutinise the National Security (Legislative Provisions) Bill.

8. PAS for S assured members that as much time as possible would be given to Members to scrutinise the Amendment Bill. PAS for S noted members' view about the

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timing for introducing the Amendment Bill into LegCo.

9. Ms Audrey EU asked how the enforcement powers as provided for under the original Schedules 2 and 3 to the Ordinance would be dealt with in the stage two legislative exercise, specifically, whether the enforcement powers would be narrowed down. Ms EU further asked whether the Amendment Bill would contain any provisions subjecting persons affected by the Government's specification and forfeiture actions to closed door hearing.

10. PAS for S responded that the Amendment Bill would include provisions enabling law enforcement officers to require relevant persons to furnish information or to produce materials, and to search premises and seize relevant materials. The exercise of all law enforcement powers would be subject to prior judicial authorisation, taking reference from similar mechanisms under the Organized and Serious Crimes Ordinance (Cap, 455). As to Ms EU's second question, PAS for S said that section 21 of the Ordinance already provided that proceedings inter partes in respect of actions under sections 5, 3, 17 and 18 were required to be held in open court unless the court otherwise ordered that the proceedings should be held in chambers or in camera in the interests of the security, defence or external relations of the Hong Kong Special Administrative Region or the administration of justice.

11. Mr Albert HO said that he did not disagree with the compensation criteria under the common law as set out by the Administration in its paper (LC Paper No. CB(2)846/02-03(04)). Nevertheless, he hoped the Administration would further review the criteria for compensating a person who had suffered loss as a result of a wrong specification under section 5 or 6 of the Ordinance, having regard to the following special circumstances pertaining to such specifications -

- (a) CE could expeditiously specify a person or property not designated by the United Nations as terrorist/terrorist associate or terrorist property, albeit with prior court authorisation, if he was satisfied that the person or property was terrorist/terrorist associate or terrorist property. Similarly, the Secretary for Security (S for S) could expeditiously freeze funds if she had reasonable grounds to suspect that the funds were terrorist funds. It could be envisaged that such specification and freezing actions would most probably be based on intelligence from overseas jurisdictions instead of the Administration's own information. It was not common for the Administration to be statutorily empowered to proceed with such expeditious actions based mainly on second-hand information from overseas, which could pose serious consequences to persons affected by the actions;
- (b) In view of the grave consequences of terrorist acts and the need to protect public interest, the court would be inclined to approve applications from CE to specify a person or property as terrorist/terrorist associate or terrorist property; and

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- (c) Given the dire consequences of being specified as terrorist/terrorist associate, it was unfair to require a person who was wrongly specified as terrorist/terrorist associate to prove that there had been some "serious default" on the part of the Government, as it was difficult for the person concerned to satisfy the court that the Government had acted in bad faith or negligently.

In the light of this, Mr HO requested the Administration to re-consider relaxing the requirement of "serious default" in the compensation provision under the Ordinance for specification actions, and provide a response in writing. The Chairman also requested that the Administration's response be provided to members, prior to the introduction of the Amendment Bill into LegCo. PAS for S agreed.

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12. On closing, the Chairman said that as a Bills Committee would most likely be formed to scrutinise the Amendment Bill after it was introduced into LegCo, members would have ample opportunities to ask questions on the Amendment Bill then.

#### **IV. Rationalisation of immigration office network**

(LC Paper No. CB(2)1113/02-03(05))

13. Deputy Secretary for Security (DS for S) took members through the Administration's paper which explained the Immigration Department (ImmD)'s efforts to rationalise its network of offices to achieve efficient use of resources.

14. Responding to Mr CHEUNG Man-kwong's enquiry about the need for having a Mobile Office to provide immigration, births and marriage registrations services, Assistant Director of Immigration (ADM) said that Mobile Office was historically provided to serve people living in remote areas where the population was sparse. Mobile Office regularly visited Rural Committees once or twice a week and for a designated period of time. In reply to Mr CHEUNG's further enquiry about the number of Mobile Office in operation, DS for S said that at present there was only one Mobile Office left serving Sai Kung and Outlying Islands. It would cease to operate after May 2003, as a result of ImmD's rationalisation efforts to achieve efficient use of resources. DS for S explained that due to urbanisation, the number of applications handled by the Mobile Office had been very small in recent years.

15. The Chairman asked whether, in ImmD's rationalising efforts, consideration would be given to contracting out marriage registration service. DS for S responded that the Security Bureau was currently in discussion with ImmD on allowing solemnisation marriage service to be performed outside a Marriage Registry and a place of public worship licensed for celebration of marriages by professionals. Legislative amendments would need to be made for implementation. Members would be consulted when details on the new arrangements had been worked out.

16. The Chairman said that at the meeting between LegCo Members and Tai Po District Council (TPDC) members held on 13 February 2003, the issue of the

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relocation of the Immigration Office in Tai Po to Fo Tan was raised. TPDC members were dissatisfied that the Administration only notified them on 7 January 2003, instead of seeking their views in advance, on relocating the Immigration Office in Tai Po to Fo Tan. They also disagreed with the Administration's explanation that the reason for relocating the Immigration Office in Tai Po to Fo Tan was because no site in Tai Po could be found. They were of the view that Tai Po should continue to be provided with an Immigration Office, having regard to the fact that there was demand for immigration service from people living in Tai Po. Despite the fact that a suitable site inside Tai Wo Estate in Tai Po had been identified by TPDC members on 8 January 2003, the Administration still proceeded with the relocation. The Chairman asked the Administration why it still insisted on relocating the Immigration Office in Tai Po to Fo Tan. The Chairman noted that Fo Tan Office would be the only office providing both immigration and registration of persons (ROP) services for East New Territories (NT) Region, upon the relocation of the Immigration Offices at Tai Po to Fo Tan and the closure of the Immigration Office in Sha Tin. In view of this, the Chairman queried whether the Fo Tan Office could cope with the service needs of people living in the East NT Region.

17. DS for S responded that as TPDC had lodged a complaint on the relocation issue with the Office of the Ombudsman, he would not seek to make further comment on the matters covered by the complaint at this very stage. Nevertheless, he understood that representatives of ImmD had explained to TPDC in detail the background of and the reasons for ImmD's rationalisation efforts in January 2003. In particular, the reason for relocating the Immigration Office in Tai Po was that it was too small to accommodate the new computer system and ancillary facilities for the issue of Smart Identity (ID) Cards and that a larger office could not be identified at the material time within the same District. Coupled with the need to rationalise the network of offices of ImmD in East NT, the eventual decision was therefore to establish a new joint office providing immigration and ROP services in Fo Tan in June 2003. DS for S further pointed out that one of the reasons why the Administration had turned down the Tai Wo Estate site proposed by TPDC was because a change of plan at this late stage would entail a sum of some \$10 million which was unacceptable under the current fiscal condition. This had been made clear to TPDC. DS for S added that one distinct advantage of setting up an Immigration Office in Fo Tan over that in Tai Wo Estate was because people could queue up indoor because Fo Tan Office was located inside an air-conditioned shopping centre. This would not be the case if the Immigration Office was located in Tai Wo Estate, as not only people would need to queue outdoor, they would also cause nuisance to people living above the Office.

18. As regards the question of whether the Fo Tan Office could cope with the service needs of people living in the East NT Region, DS for S replied in the positive. DS for S pointed out that the Administration had taken full account of the following factors before coming up to a decision on the rationalisation of ImmD's network of offices to achieve efficient use of resources -

- (a) The demand of services of the offices concerned;

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- (b) The availability of alternative office in the same region;
- (c) The ability of alternative office(s) to fully absorb the displaced workload; and
- (d) The accessibility of alternative office(s) to residents affected.

DS for S clarified that one Marriage Registry and one Births Registry would remain in Sha Tin to serve the East NT Region.

19. Mr James TO asked whether the processing time in respect of all categories of services provided by ImmD would take longer as a result of the rationalisation efforts.

20. DS for S assured members that ImmD expected that existing performance pledges in respect of all categories of services to remain unchanged. DS for S explained that as a result of the rationalisation efforts, the other 20 offices, two of which were joint offices, as listed in Annex B to the Administration's paper, would be reinforced where appropriate with additional resources to ensure that they could fully absorb the displaced workload from the closed offices. DS for S added that although some members of the public might have to travel a longer distance to obtain the service, all regional offices were easily accessible and were well connected by mass transit system.

21. Mr James TO commented that apart from office rental, it was questionable how significant a saving could be achieved through the rationalisation efforts if the existing performance pledges in respect of all categories of services would remain unchanged. DS for S explained that in addition to economics of scale, saving could be achieved because offices affected were in general under-utilised.

22. Noting the Administration's plan to issue Smart ID Cards in mid-2003 and having regard to the fact that many ImmD offices were presently not fully-utilised, Mr James TO opined that it might be better for these offices to take on the ID card replacement exercise before embarking on the rationalisation efforts.

23. DS for S responded that this was not feasible, as the computer system in the existing RoP Offices could not support the amount of work demanded of an ID card replacement exercise. To this end, nine offices would be set up for the Smart ID cards replacement exercise. ADM supplemented that as the Smart ID cards replacement exercise needed to be completed in four years' time, some 6 000 applications needed to be processed a day, as opposed to some 2 000 applications which could be processed by all RoP Offices a day. Moreover, the service hours of the nine offices for the replacement of Smart ID cards needed to be longer than normal office hours, say, from 8:00 am to 10:00 pm from Monday to Saturday, public holidays excepted.



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**V. Problem of touting**

(LC Paper No. CB(2)1113/02-03(06))

24. Members noted the Administration's paper detailing the enforcement action taken by the Police against touting activities in the Tsim Sha Tsui area.

25. The Chairman asked whether touting activities were most prevalent in the Tsim Sha Tsui area and what were the types of things generally touted.

26. Chief Superintendent responded that comparing to other Districts, touting activities were most prevalent in the Tsim Sha Tsui as well as in the Yaumati areas. As to the Chairman's second question, Deputy District Commander (Yau Tsim District) (DDC) said that the types of things generally touted were watches, tailoring service and other fad items available at upper floor shops. In response to Ms Audrey EU's question, Chief Superintendent confirmed that accepted business promotion activities in a public place for sale of an article or service would not constitute an offence of touting under section 6A of the Summary Offences Ordinance (Cap. 228) unless such an act was carried out repeatedly to the annoyance of the other person.

27. Mr James TO asked whether concerns over touting activities arose from the facts that they took away businesses from retailers and obstructed the pedestrian traffic. The problem of the latter was particularly pertinent in the Tsim Sha Tsui area, as many pavements had been dug up or closed off to make way for the railway construction work. DDC responded that these concerns were valid, in particularly the latter, and there had been complaints from hotels in the area, such as the Holidays Inn Hotel on Nathan Road.

28. Ms Audrey EU asked whether observation from the Police would constitute sufficient evidence to prosecute a person for touting, having regard to the fact that it was highly unlikely that tourists, who were generally the ones being harassed, would bother to file a complaint with the Police and/or appear before the court.

29. DDC responded that in order to instigate prosecution against a person for touting, an undercover operation would need to be staged by arranging Police officers to impersonate as tourists. This was because the court had ruled in a touting case in 2002 that mere observation from Police officers and written statement given by the person being harassed were not sufficient to secure conviction. Chief Superintendent supplemented that apart from prosecution, other actions were being pursued by the Police to prevent touting activities. Notably, Police officers would give verbal warnings to people who were carrying out touting activities, and advisory/warning letters would be issued to shop owners and shopkeepers to advise/warn them as to the legal requirements to prevent touting and to behest their compliance with the law.

30. Referring to the enforcement statistics in the Tsim Sha Tsui area in 2001 and 2002 mentioned in paragraph 4 of the Administration's paper, Ms Audrey EU asked whether the number of successful prosecutions and eventual conviction of some of them was due to undercover operation by the Police. DDC replied in the negative, as

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the case mentioned in paragraph 29 above only concluded in 2002. DDC, however, pointed out that all successful undercover operations had led to successful prosecutions.

31. There being no other business, the meeting ended at 5:50 pm.

Council Business Division 2  
Legislative Council Secretariat  
12 March 2003