

立法會
Legislative Council

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LC Paper No. CB(2) 666/04-05
(These minutes have been seen
by the Administration)

Panel on Security

**Minutes of meeting held on Tuesday, 7 December 2004
at 2:30 pm in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Daniel LAM Wai-keung, BBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon CHOY So-yuk
Hon Audrey EU Yuet-mee, SC, JP
Hon LEUNG Kwok-hung
Hon CHIM Pui-chung

Members attending : Hon CHAN Kam-lam, JP
Hon LAU Chin-shek, JP
Hon LI Fung-ying, BBS, JP
Hon WONG Kwok-hing, MH
Hon KWONG Chi-kin

Members absent : Hon WONG Yung-kan, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP

Public Officers attending : Item IV
Mr Michael WONG
Deputy Secretary for Security 3

Mr Alan CHU
Principal Assistant Secretary for Security D

Mr Raymond WONG, IMSM
Assistant Director (Information Systems)
Immigration Department

Mr Albert LAI
Chief Systems Manager (Technology Services)
Immigration Department

Item V

Mr Michael WONG
Deputy Secretary for Security 3

Ms Linda SO
Principal Assistant Secretary for Security C

Mr Y S WONG
Assistant Secretary for Security C4

Mr David CHIU
Assistant Director (Enforcement and Liaison)
Immigration Department

Mr M K FOK
Assistant Commissioner of Police (Operations)
Hong Kong Police Force

Mrs Jenny CHAN
Assistant Commissioner
Labour Department

Item VI

Mrs Jennie CHOK
Deputy Secretary for Security 2

Mr Charles WONG
Principal Assistant Secretary for Security B

Mr Simon LI
Chief Safety Officer
Civil Aviation Department

Mr Michael SCOTT
Senior Assistant Solicitor General
Department of Justice

Miss Rickie CHAN
Government Counsel
Department of Justice

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

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

Mr Raymond LAM
Senior Council Secretary (2) 5

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I. Confirmation of minutes of previous meeting and matters arising
(LC Paper No. CB(2)306/04-05)

The minutes of the meeting held on 2 November 2004 were confirmed.

2. The Chairman informed Members that he had discussed with the Secretary for Security (S for S) on 5 November 2004 the work plan of the Panel for the current session. Items likely to be proposed by the Administration for discussion by the Panel had been incorporated in the list of outstanding items for discussion. Regarding Miss Margaret NG's view at the last meeting that the Administration should not commence the drafting of a bill before consultation with the Panel on its legislative proposal, he informed Members that S for S had clarified that the wordings of the Aviation Security (Amendment) Bill, which would be discussed at this meeting, were not yet drafted and it was the Administration's intention to first consult the Panel on its legislative proposals.

II. Information papers issued since the last meeting
(LC Paper Nos. CB(2)235/04-05(01), CB(2)260/04-05(01),
CB(2)267/04-05(01) and (02), CB(2) 279/04-05(01) and
CB(2)282/04-05(01))

3. Members noted that the following papers had been issued since the last meeting -

(a) Information provided by the Administration on the meal break

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arrangements for ambulancemen;

- (b) Information provided by the Administration on whether non-core frontline duties in disciplined services departments had been taken up by civilian staff;
- (c) The United Nations Convention Against Transnational Organised Crime;
- (d) The 40 Recommendations of the Financial Action Task Force on Money Laundering;
- (e) Latest statistics and information provided by the Administration in relation to right of abode under Article 24(2)(3) of the Basic Law; and
- (f) Information provided by the Administration on the mechanism for handling complaints from persons serving sentences.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)305/04-05(01) and (02))

4. Members agreed that the meeting originally scheduled for 4 January 2005 be rescheduled to 24 January 2005 at 8:30 am to discuss the following items -

- (a) Proposal to form a subcommittee to review the provisions relating to the search and seizure of journalistic material in the Interpretation and General Clauses Ordinance; and
- (b) Crime situation in 2004.

5. Members noted that briefings by S for S and Commissioner, Independent Commission Against Corruption on the Chief Executive's Policy Address 2005 had been scheduled for 19 January 2005 from 9:30 am to 11:00 am.

6. In connection with the item referred to in paragraph 4(b) above and S for S's briefing on 19 January 2005, the Chairman suggested that members could forward their issues of concern, if any, to the Clerk who would convey them to the Administration for a response at the meeting concerned.

IV. Progress of implementation of automated passenger clearance and automated vehicle clearance at boundary control points

(LC Paper No. CB(2)286/04-05(01))

7. The Chairman said that four Members had attended a demonstration on the

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automated passenger clearance (APC) and automated vehicle clearance (AVC) systems at the Immigration Department (ImmD) on 3 December 2004.

8. At the invitation of the Chairman, the Administration conducted a PowerPoint presentation on APC and AVC systems.

9. Deputy Secretary for Security 3 (DS for S3) informed Members that the installation of APC and AVC channels at various control points was expected to be completed by mid-2006. By that time, one-third of the total number of passenger clearance counters would be APC channels. He stressed that passengers would have the choice of using APC channels or traditional immigration counters.

10. Miss Margaret NG asked whether there were situations which might lead to a breakdown of the APC channels. She also asked whether there were facilities for passengers to wash their hands, and whether there would be arrangements for cleaning any hand cream left on the fingerprint scanner.

11. DS for S3 responded that hand-cleaning facilities would be provided for passengers to clean their hands after using APC channels. Assistant Director (Information Systems), Immigration Department (AD of Imm (IS)) said that APC channels were designed to suit the use of most passengers, although dry or wet fingers would affect the ease of scanning the fingerprint. He said that publicity programmes would be launched to educate the public on how to use APC channels. The fingerprint scanner would be continuously disinfected with ultra violet light beams. A blower above the scanner would remove any dust that might accumulate on the fingerprint scanner. Cleansing workers would be deployed to clean the fingerprint scanners on a regular basis.

12. Dr LUI Ming-wah said that he had attended the demonstration at ImmD and noted that the two systems were very advanced. He asked whether any tests had been conducted on the strength of the ultra-violet light beam of a fingerprint scanner to identify its disinfection capability. He considered that the blower for the fingerprint scanner should be replaced by a high pressure air jet so as to enhance its cleaning capability.

13. AD of Imm (IS) responded that an ultra-violet light beam could not disinfect all types of germs. The blower of a fingerprint scanner was intended for removing dust that might accumulate on its surface.

14. Miss CHOY So-yuk asked whether there would be measures against the use of false fingers or artificial fingerprints.

15. AD of Imm (IS) responded that ImmD was very concerned about such an issue. He said that the fingerprint scanner would be capable of detecting the liveliness of a finger through the detection of electric current and blood flow in the finger.

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16. The Deputy Chairman asked whether problems had been identified in the tests conducted so far by ImmD.

17. AD of Imm (IS) responded that since 22 November 2004, APC channels had been installed on the ground floor of the Immigration Tower in Wan Chai and the smart identity card centres in Causeway Bay, East Kowloon and Tsuen Wan for trial by holders of smart identity cards. About 11 000 smart identity card holders had so far tried out such channels. Apart from problems arising from fingerprint scanning, for example, errors in the positioning of fingers, too dry/wet fingers, the operation of the APC channels had been very smooth. He said that Announcements of Public Interest (API) would be launched to educate the public on how to use APC channels.

18. The Deputy Chairman suggested that the Administration should pay attention to possible errors in scanning the fingerprint of construction workers or painting workers.

19. DS for S3 said that modifications would be made, where necessary, to the systems having regard to the practical experience gained.

20. Mr LAU Kong-wah asked when APC channels would be rolled out at the Lo Wu Control Point. He expressed disappointment that only one-third of all immigration counters would be fitted with APC channels.

21. DS for S3 responded that three APC channels would be rolled out at Lo Wu Control Point by the end of the following week. Adequate numbers of traditional counters had to be maintained to cope with the flow of passengers who were not eligible to use APC channels, e.g. visitors who would likely surge during festive periods and permanent residents under the age of 11 whose smart identity cards did not contain any fingerprint template. Some permanent residents also preferred using traditional counters.

22. DS for S3 said that there were currently about 226 traditional counters at Lo Wu Control Point, which had a maximum daily capacity of handling some 400 000 passengers. As two traditional counters could be converted into three APC channels, there would be a total of about 270 counters at Lo Wu Control Point after full implementation of the APC system. While such expanded facilities alone would not increase the maximum daily capacity significantly, they would help reduce the waiting time of passengers. He pointed out that the percentage of visitors among the total number of passengers had increased from 20% in 2003 to about 25% in the first 10 months of 2004 and the average immigration clearance time for a visitor was six times that for a permanent resident. Thus, a reasonable number of traditional counters had to be maintained for visitors.

23. Mr CHIM Pui-chung asked whether time savings could be achieved with the

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introduction of APC channels.

24. DS for S3 responded that the average immigration clearance time at a traditional counter was 10 to 12 seconds and that at an APC channel was nine to 12 seconds. Since two traditional counters could be converted to three APC channels, the throughput of the control point could be increased. The waiting time of passengers would be expected to be shortened when 20 or 30 more APC channels could be made open for most of the time without additional counter staff.

25. Mr CHIM Pui-chung asked whether legislation would be enacted against interference with the operation of APC channels. DS for S3 responded that such behaviour could be dealt with under existing legislation against criminal damage.

26. Miss Margaret NG said that as she was fundamentally opposed to the use of smart identity cards, she was pleased to note that a sufficient number of traditional counters would be maintained. She asked whether the Administration had drawn up contingency plans to cope with APC channel breakdowns.

27. DS for S3 responded that APC channels would be rolled out in phases to minimise the impact of problems that might arise in implementation. He said that each APC channel would have an uninterrupted power supply system. In the event of a complete power failure, traditional counters would be used. He stressed that the computer systems of ImmD had good resilience arrangement.

28. AD of Imm (IS) added that three APC channels would be rolled out at the Lo Wu Control Point in the following week. In the early stage of implementation, staff of ImmD would be deployed at each APC channel to assist passengers. Contingency plans had been drawn up by ImmD, which would monitor the situation closely.

29. Miss Margaret NG asked about the tests conducted by the Administration and the types of problems encountered.

30. AD of Imm (IS) responded that since August 2004, ImmD had conducted a series of tests, including whether smart identity cards would be easily jammed inside card reading machines and the degree of wear on the smart identity cards arising from the reading. He said that the problem of smart identity cards getting jammed inside card reading machines was not frequent and if it happened, the card could be easily retrieved by mechanical or manual means. Miss Margaret NG requested the Administration to provide information on the types and numbers of tests conducted on the APC system and the results of such tests.

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31. Mr LAU Kong-wah asked whether only three APC channels would be available for use at the Lo Wu Control Point during the Christmas and Chinese New Year holidays. He considered that the proportion of APC channels should be increased beyond one-third to at least half of the immigration counters to meet passenger needs.

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32. DS for S3 responded that the Administration intended to adopt a cautious approach by rolling out APC channels in phases. The number of APC channels in use at Lo Wu Control Point during the Chinese New Year might be increased having regard to the circumstances. He said that the targeted number of APC channels had been determined having regard to estimates on passenger flow, passenger mix, and the large number of visitors during festivals. He added that with the introduction of legislative amendments enabling non-permanent residents and visitors to use APC channels, the number of APC channels might be increased, if necessary, in the future.

Admin

33. The Chairman requested the Administration to provide information on its timetable for installation of APC channels, the estimated number of passengers holding suitable smart identity cards, the estimated number of passengers using APC channels and the capacity of APC channels.

34. The Deputy Chairman asked about the savings in manpower achievable from the use of APC channels.

35. AD of Imm (IS) said that there would be savings of 217 posts as a result of the use of APC channels.

36. The Deputy Chairman asked about the contingency plans in the event of power failure. AD of Imm (IS) responded that in the event of a complete power failure, all gates of APC channels would be automatically opened. As each control point had a backup power supply system and each APC channel had an uninterrupted power supply system allowing it to continue operating for around 10 minutes, there would be sufficient time for ImmD to implement its contingency measures.

V. Measures to combat illegal employment

(LC Paper Nos. CB(2)294/04-05(01) and CB(2)305/04-05(03))

37. At the invitation of the Chairman, DS for S3 briefed Members on the Administration's paper on its measures to combat illegal employment.

38. Mr WONG Kwok-hing said that the employment of illegal workers was very serious especially in construction sites and decoration works sector. He asked whether cash rewards could be given to employees who reported suspected cases of illegal employment.

39. DS for S3 said that the Administration had been maintaining contacts with the construction and decoration works sectors, and was fully aware of their concerns. According to experience, many reports on illegal employment were found to be false ones. The Administration considered that providing cash rewards might lead to a sharp increase in the number of reports on suspected cases. Although the

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Administration encouraged the reporting of illegal employment cases, it would be inappropriate to provide cash rewards for such reports. He said that after the introduction of legislative amendments to the Immigration Ordinance in 1999, there had been a substantial decrease in the number of contractors employing illegal workers at construction sites.

40. Assistant Director (Enforcement and Liaison), Immigration Department (AD of Imm (EL)) said that in the past six months, there were 8 305 reports of illegal employment, among which 57.44 % were false reports and 12.8% were cases of mischief. In the preceding period, there were 6 706 reports of illegal employment, among which 54.61 % were false reports and 5.8% were cases of mischief. This reflected that the number of reports had increased by 23.8%. He considered that providing cash rewards might lead to a sharp increase in the number of false reports and hence inefficient use of resources.

41. Referring to paragraph 15 of the Administration's paper, Mr WONG Kwok-hing questioned why a tender offer would not be considered only when there were three or more convictions within the 12-month period prior to the tender closing date. He was of the view that a tender should not be considered once there was any conviction within the 12-month period prior to the tender closing date. His view was echoed by Ms LI Fung-ying and Mr Kwong Chi-kin. Mr Kwong Chi-kin considered that the suggestion should be implemented immediately.

42. DS for S3 noted the views of Members. He said that the Security Bureau was consulting other bureaux and departments on the feasibility of incorporating suitable provisions in the licensing conditions of different government licences to deter illegal employment. The consultation exercise was expected to be completed in mid-2005.

43. AD of Imm (EL) stressed that ImmD was very concerned about the problem of illegal employment. A number of measures had been introduced to tackle the problem at different levels. ImmD had strengthened its hotline and issued guidelines to the property management sector on how to prevent illegal workers from taking up decoration works in housing estates.

44. Referring to paragraph 20 of the Administration's paper, Mr LAU Chin-shek asked about the number of employers sentenced to 15 months' imprisonment. Referring to paragraph 21 of the Administration's paper, he questioned why the sentencing guideline, which was previously 15 months' imprisonment, was revised to three months' immediate custodial sentence. He considered that such a change in the length of sentence would convey a wrong message to employers.

45. AD of Imm (EL) responded that the sentencing guideline for employers convicted of employing illegal workers who were illegal immigrants had been and was still 15 months' sentence. This was in line with the sentencing guideline for such workers. Where the sentence of such an employer was less than 15 months,

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ImmD would seek legal advice on whether to apply for a review of the sentence. He said that the sentencing guideline for illegal workers who entered Hong Kong with valid travel documents was two to three months' imprisonment. In line with this, the sentencing guideline for employers aiding or abetting such activities was three months' immediate custodial sentence. Legal advice sought by ImmD indicated that the sentencing guideline was appropriate. He added that immediate custodial sentence had an obvious deterrent effect on employers. In this connection, an API would be produced by ImmD.

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46. Mr LAU Chin-shek requested the Administration to provide information on the number of cases where employers were sentenced to less than 15 months' imprisonment for employing illegal immigrants.

47. Referring to paragraph 6 of the Administration's paper and item (C) of the Annex to the paper, Mr LAU Kong-wah asked why the number of visitors holding Exit-Entry Permits for visiting relatives had increased from 1 831 in 2003 to 2 336 in the first 10 months of 2004, despite that the Mainland authorities had tightened up the issuing of endorsements for business visits and visiting relatives. The Chairman asked about the total numbers of Mainland visitors with endorsements for business visits and visiting relatives.

48. DS for S3 said that the number of Mainland visitors with endorsement for business visits was 8 622 in 2003 and 7 460 in the first ten months of 2004. The number of Mainland visitors with endorsement for visiting relatives was 4 100 in 2003 and 4 747 for the first 10 months of 2004. It could be noted that the number of visitors holding endorsements for business visits had decreased, whereas the number of visitors holding endorsements for visiting relatives had increased. In this connection, the Administration would discuss with the Mainland authorities whether any further measures should be introduced on endorsement for visiting relatives.

49. Mr LAU Kong-wah said that there were newspaper reports that a senior official of Wei Zhou Public Security Bureau responsible for the issuing of Two-way Permits had recently been arrested for corruption. He asked whether the Administration had examined whether there were other provinces from which large numbers of visitors were found working illegally in Hong Kong.

50. DS for S3 responded that he was not in a position to comment on newspaper reports, especially when the case concerned had not yet been concluded. He informed Members that since the beginning of 2004, the Administration had provided Mainland authorities with analyses of the origin of illegal workers. However, he was not in a position to disclose further details because such disclosure might affect future operation and result in visitors from some provinces or cities being inappropriately stigmatised.

51. Referring to paragraph 6 of the Administration's paper, Mr LAU Kong-wah asked whether all the applications for visits to Hong Kong from Mainland visitors

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who had been arrested for working illegally in Hong Kong were rejected for a period of two to five years.

52. AD of Imm (EL) responded that since the implementation of the Electronic Notification System for transmission of information about illegal workers and other abusers to the Mainland authorities, he was not aware of any case which the Mainland authorities had issued a new exit endorsement to the monitored abuser without prior notification to ImmD.

53. Ms LI Fung-ying asked about the measures adopted by the Administration to combat the problem of illegal workers taking up unapproved cross-boundary driving duties on private cars. DS for S3 responded that a number of joint operations had been launched to combat the problem of Mainland cross-boundary drivers taking up unapproved driving duties in Hong Kong. However, no illegal worker had so far been found taking up unapproved cross-boundary driving duties on private cars. He invited Ms LI to provide further information for follow-up by the Administration.

54. Mr CHEUNG Man-kwong said that the Administration should identify the provinces and cities where large numbers of visitors with endorsements for business visits were arrested for illegal work in Hong Kong and convey such information to the Mainland for tackling the problem at source. He considered that the Administration should also provide Members with information on the provinces and cities where illegal workers came from.

55. DS for S3 agreed with Mr CHEUNG's view that the problem of illegal employment should be tackled at source. He cautioned that measures that were too stringent might affect Mainland visitors who visited Hong Kong for genuine business purposes. He agreed to consider providing the requested information to Members on a confidential basis.

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56. Ms Audrey EU asked about the average and maximum sentences of employers of illegal workers. Referring to paragraph 21 of the Administration's paper, she also asked whether three months' immediate custodial sentence had sufficient deterrent effect on employers.

57. DS for S3 responded that in the first 10 months of 2004, the maximum sentence of employers of illegal workers was 15 months. Whereas an employer might only be required to serve a suspended sentence in the past, the sentencing guideline issued by the Court of Appeal required an employer of illegal workers to be sentenced to three months' immediate custodial sentence. He considered that the element of immediate custodial sentence should have sufficient deterrent effect on employers.

58. Ms Audrey EU asked whether illegal workers were entitled to claim outstanding wages.

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59. Assistant Commissioner, Labour Department responded that as the employment contract concerned was illegal, the workers concerned were not entitled to claim any outstanding wages.

60. Mr LEUNG Kwok-hung said that heavy sentences should be imposed on employers of illegal workers and persons involved in organising illegal workers to work in Hong Kong. He considered that the maximum imprisonment term of employers should be increased to 45 months and illegal workers should be repatriated upon arrest but not imprisoned.

61. DS for S3 shared the view that heavy sentences should be imposed on employers of illegal workers and persons involved in organising illegal workers to work in Hong Kong. He said that imposing a custodial sentence on illegal workers was necessary in order to maintain the deterrent effect.

62. Referring to item (D) in the Annex to the Administration's paper, the Chairman asked whether there were cases where an employer was not sentenced to imprisonment and cases where ImmD had applied for increasing the sentence on an employer. He also asked about the maximum number of illegal workers employed by a single employer.

63. DS for S3 responded that the statistics in item (D) of the Annex to the Administration's paper covered the period up to October 2004, whereas the sentencing guideline issued by the Court of Appeal was only issued in September 2004. He said that after the guideline was issued, the Administration had been monitoring the sentences of employers and noted that such guideline had so far been closely adhered to. To his knowledge, the maximum number of illegal workers employed by a single employer was about 15 to 18 illegal workers and the employer concerned was sentenced to 21 months' imprisonment. He considered that the sentencing guideline was appropriate. Should it become inadequate, the Administration would seek legal advice for further reviews.

64. Mr Kwong Chi-kin said that publicity on the immediate imprisonment of employers of illegal workers should be strengthened to enhance the deterrent effect. He considered that an employer who had been convicted of employing illegal workers should not be allowed to bid for any government contracts.

65. DS for S3 noted the views of Mr Kwong. He said that there had been ongoing publicity against illegal employment.

VI. Aviation Security (Amendment) Bill
(LC Paper No. CB(2)305/04-05(04))

66. At the invitation of the Chairman, Deputy Secretary for Security 2 (DS for S2) briefed Members on the Administration's proposal to amend the Aviation Security

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Ordinance (Cap. 494).

67. Mr Howard YOUNG expressed support for the Administration's legislative proposal. He said that the aviation sector hoped that the legislative proposal had been passed in the previous year.

68. The Deputy Chairman expressed support for the Administration's legislative proposal. He considered that wide publicity should be launched by the Administration before implementation.

69. The Chairman asked whether the acts referred to in paragraph 11 of the Administration's paper would be dealt with through the offences referred to in paragraph 12 of the paper. DS for S2 responded that the Administration would propose listing the offences referred to in paragraph 12 of the paper in the proposed legislation.

70. The Chairman asked whether sexual harassment, which was an offence under the Sex Discrimination Ordinance (Cap. 480), could be dealt with under the offences referred to in paragraph 12 of the Administration's paper. Senior Assistant Solicitor General responded that the offence could be dealt with under the new offence provisions referred to in paragraph 10(a) of the Administration's paper.

71. The Chairman expressed concern that the acts referred to in paragraph 10(a) and (b) of the Administration's paper might be too broad. DS for S2 responded that paragraphs 10(a) and (b) took reference from the provisions of the model legislation developed by the International Civil Aviation Organisation, which considered those provisions most important to ensuring the safety and good order on board the aircraft. She was confident that the proposed offence provisions would not be abused by aviation companies. The Chairman requested the Administration to provide overseas precedents relating to the acts referred to in paragraph 10(a) and (b) of the Administration's paper.

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72. Referring to paragraph 12 of the Administration's paper, Mr LEUNG Kwok-hung said that as the Public Order Ordinance (POO) (Cap. 245) could be easily abused by law enforcement agencies, a person on board an aircraft disseminating handbills against war or calling for participation in a demonstration might be caught by the proposed offence provision. He considered that the proposed legislation should not incorporate the offence of disorderly behaviour in public places in section 17B(2) of POO.

73. DS for S2 responded that the Administration's objective was to provide for the offence of disorderly behavior in public place and that, for the purposes of such provision, the areas within an aircraft would be regarded as a public place.

74. The Chairman suggested that the Administration should consider whether the distribution of handbills calling for participation in a demonstration on land should be

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made an offence. He also suggested that the Administration should consider whether there was a need to incorporate in the proposed legislation the offence referred to in section 17B(2) of POO, given that the relevant acts could be dealt with under paragraph 10(b) of the Administration's paper.

75. There being no further business, the meeting ended at 5:00 pm.

Council Business Division 2
Legislative Council Secretariat
14 January 2005