

立法會
Legislative Council

LC Paper No. CB(2)787/05-06
(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting
held on Friday, 9 December 2005 at 10:00 am
in the Chamber of the Legislative Council Building

Members present : Hon Tommy CHEUNG Yu-yan, JP (Chairman)
Hon TAM Heung-man (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Margaret NG
Hon James TO Kun-sun
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LI Kwok-ying, MH
Hon Daniel LAM Wai-keung, BBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Patrick LAU Sau-shing, SBS, JP

Member attending : Hon Fred LI Wah-ming, JP

Members absent : Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Wong-fat, GBM, GBS, JP

Public Officers attending : Item IV

Ms Anissa WONG
Director of Leisure and Cultural Services

Mr Alan SIU
Deputy Director of Leisure & Cultural Services (Leisure
Services)

Miss Olivia CHAN
Assistant Director (Leisure Services)2, Leisure &
Cultural Services Department

Mr Eddie POON
Principal Assistant Secretary for Home Affairs
(Recreation and Sport)

Mrs Celina KWOK
Chief Project Manager, Architectural Services Department

Item V

Mr Stephen FISHER
Acting Permanent Secretary for Home Affairs

Miss Joanna CHOI
Principal Assistant Secretary for Home Affairs (2) (Des)

Miss Vivian CHAN
Assistant Secretary for Home Affairs (3)1

Item VI

Mrs Pamela TAN
Director of Home Affairs

Mr Isaac CHOW
Deputy Director of Home Affairs (2)

Miss Victoria TANG
District Officer (Wong Tai Sin), Home Affairs Department

Mr Lawrence CHEUNG
Assistant Director (Leisure Services)1, Leisure and
Cultural Services Department

Ms Grace CHAN
Chief Social Work Officer (Elderly)1, Social Welfare
Department

Mr FUNG Kin-man
Chief Superintendent (Field) (Support Branch), Hong
Kong Police Force

Mr Peter LAU
Superintendent (Field) (Support Branch), Hong Kong
Police Force

**Attendance by
invitation** : Item V

Equal Opportunities Commission

Mr Raymond TANG Yee-bong
Chairperson

Mr Michael CHAN Yick-man
Director (Planning & Administration)

Mr Herman POON Lik-hang
Acting Chief Legal Counsel

Office of the Privacy Commissioner for Personal Data

Mr Roderick B WOO
Privacy Commissioner for Personal Data

Ms Brenda KWOK
Chief Legal Counsel

**Clerk in
attendance** : Miss Flora TAI
Chief Council Secretary (2)2

**Staff in
attendance** : Ms Joanne MAK
Senior Council Secretary (2)2

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I. Confirmation of minutes
[LC Paper No. CB(2)577/05-06]

The minutes of the meeting on 8 November 2005 were confirmed.

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II. Information paper(s) issued since the last meeting

[LC Paper Nos. CB(2)352/05-06(01) and CB(2)454/05-06(01)]

2. Members noted that the following papers had been issued since the last regular meeting –

- (a) letter dated 1 November 2005 from the Secretary for Home Affairs (SHA) to the Deputy Chairman on the procedure proposed by the Administration to the Equal Opportunities Commission (EOC) for approving overseas duty visits conducted by EOC; and
- (b) information paper entitled “Committee on Performing Arts Consultation Paper November 2005”.

III. Items for discussion at the next meeting

[Appendices I and II to LC Paper No. CB(2)576/05-06]

3. Members agreed to discuss the implementation of the recommendations made in the Report of the Independent Panel of Inquiry on the Incidents Relating to EOC and the recommendations made in two other reports of the internal reviews conducted by EOC at the next regular meeting of the Panel on Friday, 13 January 2006 at 10:45 am. Members agreed that there was no need to start the meeting earlier since there was only one item for discussion.

4. With regard to the Administration’s decision that it was not going to present a proposal for additional funding to be sought for the Tseung Kwan O Sports Ground project at the next Panel meeting in January 2006, Ms Emily LAU considered that the Administration should provide a paper setting out the relevant details to the Panel for members’ information.

[Post-meeting note: In response to the Clerk’s enquiry, the Administration confirmed that an information paper would be provided to update the Panel on the progress of the Tseung Kwan O Sports Ground project. The information paper was issued vide LC Paper No. CB(2)804/05-06(01) dated 5 January 2006.]

IV. Funding proposal on hosting the 2009 East Asian Games

[LC Paper Nos. CB(2)576/05-06(01) & (02) and CB(2)672/05-06(01)]

5. Members noted that a written submission made by Assistant Leisure Services Manager II Association (the Association) was tabled at the meeting. The Chairman said that the Association had requested to attend this meeting to make oral representations. In view of the time constraint, he had not acceded to the Association’s request and had suggested that they could, instead, make a

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written submission to the Panel. Ms Emily LAU requested the Administration to give a written response to the concerns raised by the Association. The Administration agreed.

[*Post-meeting note*: the written submission of the Association was issued vide LC Paper No. CB(2)672/05-06 dated 12 December 2005.]

Community/commercial sponsorship

6. Mr LEE Kwok-ying expressed support for the funding proposal as he considered that the economy of Hong Kong would benefit by hosting the 2009 East Asian Games (EAG). He, however, expressed concern about a news article reporting that the 2005 Macau EAG was not very successful in terms of number of spectators and many of whom were actually young students including even kindergarten students. It was also mentioned that some resources had not been used in a cost-effective manner in the delivery of the Games. Mr LEE urged the Administration to learn from the experience of the 2005 Macau EAG. Referring to paragraph 13 of the Administration's paper, Mr LEE expressed concern whether the updated estimate on community/commercial sponsorship, i.e. \$50 million, was realistic, as sponsors might not be so enthusiastic in sponsoring the event in view of the low turnout at the competition events during the 2005 Macau EAG.

7. Director of Leisure and Cultural Services (DLCS) responded that the Administration had increased the estimate on community/commercial sponsorship from \$30 million to \$50 million after discussion with the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) and the Planning Committee set up to oversee the planning and preparation of the 2009 EAG. She said that up till the present moment, \$16 million of sponsorship had already been pledged and the Administration was confident that the target could be met and hoped that it could be exceeded. DLCS further said that the Administration attached great importance to promoting community support for hosting the 2009 EAG. For example, the Planning Committee comprised representatives not only from the Government but also from various sectors of the community, such as the sports, tourism, and business sectors. The Administration had also briefed the 18 District Councils (DCs) on the holding of the 2009 EAG and it would continue to maintain close liaison with the sports sector, the community, schools and DCs in the course of preparation and staging of the Games with a view to promoting community involvement.

8. DLCS further said that the number of spectators would be related to the selection of the competition events and scheduling of the events. She said that selection of the competition items for the 2009 EAG was subject to discussion among the local sports sector and the endorsement of the EAG Association. She said that suitable arrangements would be made in respect of scheduling and publicity of the competition events in order to boost attendance. She added that

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the Administration did not have full details on attendance of the competition events of the 2005 Macau EAG.

9. Mr WONG Ting-kwong considered that the hosting of the 2009 EAG would help promote the image of Hong Kong as a world city and promote young people's interest in sports. He added that the Democratic Alliance for the Betterment and Progress of Hong Kong supported the funding proposal but it hoped that the Administration would economise on the expenditure and ensure that the funds were used in a cost-effective manner.

10. Mr WONG Ting-kwong was also concerned whether the Administration could achieve the targeted amount of community/commercial sponsorship, and whether sponsors would be deterred from sponsoring by the Administration's policy that it would not allow "excessively overt commercialisation" in its recognition of sponsorship.

11. Deputy Director of Leisure & Cultural Services (Leisure Services) (DDLCS(LS)) explained that it was in line with the established policy that the Administration would only confine the recognition of sponsorship to promotion of corporate identity and not particular products. He said that this policy also applied to all sports events organised at the venues of the Leisure and Cultural Services Department (LCSD).

Government policy of promoting sports in the community and in schools

12. Mr Andrew CHENG said that he was surprised that the Administration had put up the current proposal to seek additional funding without detailed justifications. He expressed grave concern whether the holding of the 2009 EAG would end up in a large deficit far exceeding the projected deficit, and whether the operating expenditure for the event would increase indefinitely in the future. He said that should the proposed increase in the operating expenditure be used to enhance sports development programme for the general public, Hong Kong people would benefit more. He queried whether Hong Kong had the same need like Macau to raise its prestige and profile in the region by hosting EAG, which were relatively not very attractive sports events, at great cost. He also drew members' attention to the Administration's current proposal that, on top of the proposed increase in the operating budget for holding the 2009 event, the total capital cost for the venue preparation also amounted to over \$1 billion. Mr CHENG expressed deep regret at the absence of SHA as he considered that SHA should present the funding proposal in person and give an explanation for the increase in the estimated operating budget.

13. Mr CHENG also expressed dissatisfaction with the Administration's policy which in his view only emphasised organising major sports events and implementing venue improvement works which were also for the purpose of

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hosting such events. Mr CHENG said that the Democratic Party (DP) supported enhancing sports development, but it had strong views about the funding proposal. He further said that the Administration had done little to promote Hong Kong people's interest and participation in sports, and its funding allocation for sports development was also imbalanced. He said that funds had been mainly allocated to major National Sports Associations whereas some schools which had achieved very good results in sports were not even able to get any funding assistance for sending students to participate in international competitions. He added that the resources made available to LCS D for implementing initiatives and programme to promote a sporting culture in the community had also been very limited.

14. DLCS explained that the Administration intended to adopt a practical and prudent approach in the provision of sports venues for hosting the 2009 EAG, as seen from the fact that no new sports facilities had been proposed to be built only for staging the 2009 EAG. She pointed out that the Administration had tried to use existing Government venues as far as possible which, with appropriate upgrading and enhancement by temporary works, would be able to meet the international standards for holding the various events of the 2009 EAG.

15. Referring to Annex L to the Administration's paper, DLCS further said that the Administration had carried out a re-assessment on venue upgrading works, and had worked out the scope of works required and cost estimation. She pointed out that the improvement works were also required to rejuvenate aging facilities, including the Hong Kong Coliseum, Queen Elizabeth Stadium, Kowloon Park Swimming Pool and Victoria Park Tennis Centre, to bring them up to current day standard for the long-term needs of sports development in Hong Kong. She said that the capital cost for the proposed improvement projects was worthwhile investment which would be beneficial to the long-term sports development in Hong Kong.

16. Mr Andrew CHENG considered that promotion of interest in sports had to start at schools, and it was therefore essential for LCS D to collaborate with the Education and Manpower Bureau (EMB) in order to promote a sporting culture in the community. He said that whether or not LCS D could successfully promote sports in the community also depended on the adequacy of resources provided by the Home Affairs Bureau (HAB). Mr CHENG criticised HAB for failing to address the above issues in the past or issue any policy paper explaining the direction of the Government policy on sports development. He reiterated that it was inadequate for the Administration to have only emphasised investing in sports infrastructure without taking initiatives to promote a sporting culture at the community level. He and Ms Emily LAU requested the Administration to provide a paper explaining what measures were being/would be taken to promote sports in the community and in schools, before submitting the funding proposal to the Finance

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Committee (FC) for approval. They also considered that SHA should attend the relevant FC meeting to answer Members' questions regarding the funding proposal and policy on funding allocation for sports development.

Admin 17. DLCS said that LCSD had been working closely with EMB in the organisation of activities for students and she agreed to provide detailed information on the work undertaken by LCSD in promoting sports in schools and on students' participation. She added that the concerns raised by Mr CHENG would also be conveyed to HAB and EMB for consideration.

Admin 18. Ms Emily LAU asked whether arrangements had been made for schools to make use of public sports facilities during daytime so that these facilities could be fully utilised. DLCS informed members that public sports facilities were made available to schools as well as community groups and organisations free of charge during non-peak hours. She added that LCSD had boosted usage of certain facilities, e.g. squash courts, by using them for holding other recreational activities.

Venue improvement works

19. Mr Albert HO queried why the proposed venue improvement works, which were supposed to be routine maintenance/upgrading works required for the aging facilities, had not been carried out in the past. He said that he was a bit surprised to find that the Administration had, all of a sudden, proposed to spend \$770 million on these improvement works which should have been implemented in the past. He further said that the Administration in so doing was giving the impression that these infrastructural improvements had been proposed for the sole purpose of holding the 2009 EAG.

20. DLCS reiterated that the proposed venue upgrading works would benefit the local sports community and enhance the long-term sports development in Hong Kong. She explained that the required improvement works broadly included functional/competition requirements which were essential for the holding of the EAG and other international sports events, face-lifting and creative adaptive works to project a coherent identity for the competition venues, and upgrading and revitalisation works for the aging facilities. DLCS admitted that the implementation of individual projects, e.g. improvement works of Kowloon Park Indoor Swimming Pool, had been advanced by one to two years in order to tie in with the holding of the 2009 EAG. DLCS pointed out that given the large-scale upgrading and revitalisation works involved, expenditure of such works could not be absorbed by the budget for routine maintenance. The Administration would seek formal funding approval for the proposed venue works from the Legislative Council (LegCo) in accordance with the prevailing procedures.

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21. DLCS stressed that these upgrading and revitalisation works were essential, and the holding of the 2009 EAG had provided an opportunity for the Administration to review the needs and seek improvements for the aging facilities at one go. Mr Albert HO, however, considered that this was not the right approach as it seemed that the Administration would not have conducted such a review if it had not been for the 2009 EAG.

22. Ms Emily LAU expressed support for the proposed venue improvement works which, in her view, would benefit the public and should have been carried out years ago. Mr Daniel LAM considered that the proposed improvement works for upgrading existing venues would be beneficial to the public and would foster the long-term sports development in Hong Kong. Mr LAM said that he and Mr LAU Wong-fat were supportive of the funding proposal. Referring to the concern raised by Mr LEE Kwok-ying (paragraph 6), Mr LAM added that it was not appropriate to compare Hong Kong with Macau given the large difference in population size between the two places.

23. Mr WONG Ting-kwong asked whether the proposed improvement projects would delay the implementation of the outstanding leisure and cultural services (LCS) projects of the former Municipal Councils. DDLCS(LS) responded that there were 44 LCS projects which had secured funding and would commence construction soon. He said that the estimated cost for the proposed improvement projects only took up about 20% of the total estimated cost for the 44 projects and their implementation would not be affected by the proposed improvement projects.

24. Mr Patrick LAU considered that the 2009 EAG provided an opportunity to showcase Hong Kong and help enhance tourism. He urged the Administration to enhance its work on greening in the vicinity of the competition venues, and to include designs in the improvement works to feature local characteristics of different districts. DLCS responded that enhanced greening measures would be implemented on top of the face-lifting and creative adaptive works for the competition venues.

25. The Chairman said that the Liberal Party supported hosting the 2009 EAG and the proposed venue improvement works especially for the aging facilities to bring them up to current day standard. He agreed that these works would benefit the community and would create job opportunities. He considered that there was a need to upgrade Hong Kong's sports infrastructure so as to better prepare Hong Kong for holding many more international sports events in future. In this connection, he suggested that Hong Kong should make an attempt in 2010 to bid for the right to host the Masters Games, which he believed would generate considerable economic benefits.

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Updated operating budget and training budget for athletes

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26. Commenting on the revised expenditure estimate, Mr Albert HO said that he expected the paper to be submitted to FC would include more details to explain the proposed increases in estimated costs for many of the expenditure items, e.g. EAG Association meetings. He considered that the Administration should address, in particular, the following issues –

- (a) whether there was a policy of enhancing training for elite and potential athletes and whether there was a plan to strengthen training for elite athletes to prepare them for participation in the 2009 EAG; and
- (b) how to justify the proposed large increase (i.e. \$10 million) in the estimated cost for the opening ceremony against the background of a general reduction in Government subsidies for welfare services, e.g. the Administration's refusal to provide funding to allow a Sexual Violence Crisis Centre (Rainlily), which was the only one service centre of its kind that provided one-stop, 24-hour crisis intervention services to victims and involved an annual cost of \$2.2 million only, to continue.

Mr HO said that DP supported the hosting of the 2009 EAG and allocation of funds to meet the costs of fundamental expenditure items. He, however, considered that certain expenditure items, such as the opening ceremony, should have room for reduction in cost and he further considered that Hong Kong should not have such a grand opening ceremony if it was so mean in its welfare policies. He added that if the Administration refused to review and cut expenses for non-essential items, DP would oppose the funding proposal when it was presented to FC.

27. Ms Emily LAU said that she agreed with Mr HO that it was extremely inappropriate for the Administration, on the one hand, not to support an important social service item like Rainlily which only involved minimal operating cost and, on the other hand, to spend a considerable sum of money on the 2009 EAG. She also considered that the Administration should try to cut the estimated expenditure for certain items, including opening and closing ceremonies as well as VIP hospitalities, to economise on expenditures.

28. DLCS said that the increase in the estimated cost for the opening and closing ceremonies had been proposed having regard to practical needs. She hoped that members would consider this expenditure item on the basis of its own merits.

29. DLCS further said that the current proposal was concerned with the funding arrangements for hosting of the 2009 EAG. There was a separate

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funding mechanism to meet the cost of training for athletes. Principal Assistant Secretary for Home Affairs (Recreation and Sport) (PASHA(R&S)) supplemented that the Government each year made an allocation of about \$10 million to Hong Kong Sports Institute (HKSI) to support its routine training programme for elite athletes. In addition, grants could be applied from the Arts and Sports Development Fund to support enhanced training programme for athletes who were going to take part in major Games and Championships. As regards the 2009 EAG, HAB was considering provision of additional resources to enhance training for the eligible elite athletes to help them achieve better results in the Games and relevant details were being worked out with HKSI.

30. In response to the Chairman, PASHA(R&S) said that at the present moment HAB had no plan to seek additional funding from LegCo for implementation of enhanced training programme for elite athletes to prepare them for participation in the 2009 event. He added that the Administration would first consider other possible sources, such as sponsorship from the business sector and the community. Ms Emily LAU requested that the Administration should provide information on its plan for enhancing training for elite athletes in preparing them to take part in the 2009 EAG.

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31. Noting that Government funding support for holding the 2009 EAG was anticipated to be \$123 million, Ms Emily LAU asked whether the 2005 Macau EAG had also ended up in a deficit. She said that revenue generated from ticket sales and television rights would be related to the attractiveness of the competition events to be included in the 2009 EAG. She queried how the Administration could have come up with the estimated revenue for these two items since the competition events had yet to be finalised, and whether the Administration was already able to estimate the number of spectators of the 2009 EAG. She expressed serious concern as to the accuracy of the estimated revenue in Annex II to the Administration's paper.

32. DLCS pointed out that certain competition events such as athletics and aquatics were already known to be the core events. She explained that given the normal practice that the host city had considerable influence over selection of competition events, the Administration had estimated the number of spectators and planned for the competition venues using certain kinds of sports as the reference point. The sports used as the reference point were those that had been regarded as local athletes' strengths and had good appeal to Hong Kong people. DDLCS(LS) pointed out that the estimated revenue of \$28 million from ticket sale was projected on the assumption of an average of around 40% of ticket sale for the competition events.

33. DLCS said that the commitment of \$123 million the Administration intended to make should be viewed as a form of Government support for holding the 2009 EAG. She pointed out that the estimated revenue from

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sponsorship and other items was rather conservative estimation. If actual revenue turned out to be much more than that estimated, there would be surplus funding from the Games, which would be returned to the Government.

34. The Chairman asked whether Government funding support would be capped at \$123 million. DLCS said that this amount had been calculated on the basis of estimates in terms of expenditures and revenue. She pointed out that it was also possible that the executive arm company (the Company) might find it necessary to increase the operating budget for holding the 2009 EAG in the course of implementation of the Games. She added that the Company would be required to submit annual audited financial statement to the Government and the Planning Committee to ensure that its funds were used in a cost-effective and accountable manner.

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35. Ms Emily LAU noted that under the current proposal, Government funding support would be maintained at around 50% of the overall operating budget. She shared the Chairman's concern as to whether Government funding support would be capped. She further asked about the legal liability of the Government, if the Company ran into deficit and the Government refused to provide any more subsidy beyond the budget ceiling. She was concerned whether the Government would also be sued even if a ceiling was set to the Government funding support. She requested the Administration to explain very clearly on this point in its paper to be submitted to FC.

36. Mr Patrick LAU considered that the budget for the opening and closing ceremonies should not be cut as a lot of revenue could come from these items through ticket sales. He suggested that the Administration should rather explore if it was possible to cut the estimated cost for providing accommodation and catering services for athletes. He asked whether the Administration would consider accommodating the athletes in vacant Home Ownership Scheme (HOS) flats or building an athletes' village, and how much economic benefits were anticipated to be generated by the 2009 EAG. Commenting on the competition events of EAG, Mr LAU added that table-tennis should be included as it was a very popular sport in the region.

37. DDLCS(LS) responded that the quantifiable economic benefits of hosting the 2009 EAG could be assessed in terms of the value added contribution to Gross Domestic Product arising from additional spending induced by the event. This was estimated to amount to around \$75 million in 2005 prices. It was estimated that the number of tourists that could be induced by the event was about 5% of the estimated spectators, i.e. around 10 000.

38. As regards charged accommodation and catering, DDLCS(LS) said that it was the normal practice to arrange hotel accommodation for the athletes and delegation members and to charge them at a fixed rate of US\$50 per day, i.e. \$390 per day. The estimated revenue from this item was \$8 million

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whereas the estimated cost for it was \$15 million. DDLCS(LS) added that the suggestion of accommodating the athletes in vacant HOS flats would not be feasible as such premises might not be available in the vicinity of the competition venues.

39. DLCS pointed out that there was no plan to build an athletes' village as the competition venues for the 2009 EAG were scattered in different districts, and there was no such a requirement for the host city to provide such facilities. She added that capital cost would be incurred if an athletes' village was constructed.

40. Dr Fernando CHEUNG expressed opposition to the proposal under discussion. He said that based on the information provided in the Administration's paper, he did not understand why the revised operating budget had substantially increased by 46.4% as compared with the previous one. He considered that it was inadequate for the Administration to have given only one reason for the large increase, i.e. the previous budget had been prepared in 2003 when it was immediately after the SARS epidemic and the occasion was now taken as an opportunity to showcase Hong Kong. Referring to Annex H to the Administration's paper, Dr CHEUNG also queried why some expenditure items, e.g. administration, opening and closing ceremonies, and volunteers, etc. had a large rate of increase in estimated cost, and why two new expenditure items, i.e. EAG Association meetings and contingency, had been included. He expressed serious concern about the substantial financial implications incurred by holding the 2009 EAG, which included Government funding support of \$123 million and capital cost of \$1 billion for venue improvement works. He said that he could not accept the Government making such a massive investment in a one-off sports event and, at the same time, not sparing a single cent on many services and initiatives affecting people's livelihood.

41. The Chairman also expressed concern about the large rate of increase in estimated cost for the items of administration, accommodation and catering, opening and closing ceremonies, and volunteers. DDLCS(LS) made the following responses –

- (a) the original estimate of administration cost, i.e. \$8 million, had been made based on 10% of the \$85 million assumed for bidding for the 2006 Asian Games. With more information that had come up in the last two years, the Administration was now able to make a more realistic estimate of \$15 million;
- (b) the estimated cost for accommodation and catering had been raised from \$8 million to \$15 million as the 2009 EAG would be held in November which was a high season for tourism and hotel instead of May as originally planned;

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- (c) the estimated cost for the opening and closing ceremonies had been raised from \$25 million to \$35 million to ensure that the opening and closing ceremonies would be held in a professional manner and with quality standard; and
- (d) the estimated expenses for volunteers had been raised from \$4 million to \$8 million as the number of volunteers planned to be recruited had increased from 2 000 to 5 000.

42. Dr Fernando CHEUNG said that the explanation given by the Administration meant that there was still the possibility for further increases in the operating budget, as it would be possible for the present estimates to become outdated again in the lapse of time and that additional funding would have to be sought in the next few years.

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43. The Chairman said that he also noted that the Administration had given no undertaking that the operating budget would not increase any further and he was most displeased to see that the revised operating budget had increased by almost 50% only about two years after the previous budget had been approved. He considered that the Administration should give an undertaking that the operating budget would not increase further unless it had to cope with certain unforeseen circumstances, such as inflation or inclusion of additional competition events after selection of the events was finalised. The Chairman suggested that the Administration should spell out all the possibilities for it to require additional funding again for hosting the 2009 EAG in its paper to be submitted to FC.

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44. The Chairman concluded that except Dr Fernando CHEUNG who opposed the entire proposal under discussion, members who had expressed their views in general supported the Administration submitting the proposal to FC for further consideration. He also reminded the Administration that members felt strongly that SHA should attend the relevant FC meeting. As proposed by Ms Emily LAU, the Panel requested the Administration to provide a detailed response to the concerns raised by members in its paper to be submitted to FC. The Administration agreed.

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V. Proposed guidelines for conducting duty visits outside Hong Kong issued to the Equal Opportunities Commission and the Office of the Privacy Commissioner for Personal Data

[LC Paper Nos. CB(2)576/05-06(03) to (05), CB(2)621/05-06(01) and CB(2)638/05-06(01)]

45. Acting Permanent Secretary for Home Affairs (PSHA(Atg)), the Chairperson of EOC (C/EOC), and the Privacy Commissioner for Personal

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Data (the Privacy Commissioner) briefed members on the salient points of the papers provided by the Administration, EOC, and the Office of the Privacy Commissioner for Personal Data (PCO) respectively.

46. Mr Albert HO expressed opposition to the Administration's proposal to ask C/EOC and the Privacy Commissioner to seek prior approval of SHA before embarking on overseas duty visits. He considered that the proposal would give the impression that the Government was interfering with the work of the two statutory bodies and that C/EOC and the Privacy Commissioner were subordinates to SHA. He further pointed out that the proposed approval procedure could work to restrict the activities of C/EOC and the Privacy Commissioner, and would have serious impact on the autonomy of the two statutory bodies.

47. Mr HO considered that HAB could make suggestions to the Personal Data (Privacy) Advisory Committee and the governing body of EOC, i.e. the Commission, but it should be for them to advise the Privacy Commissioner and C/EOC respectively on this matter. Mr HO further asked whether any other statutory bodies, such as the Trade Development Council, the Airport Authority, the Hong Kong Tourism Board, the Kowloon-Canton Railway Corporation and the Hospital Authority, were also subject to the same proposed approval procedure and if not, why the approval procedure would arbitrarily apply only to PCO and EOC. He stressed that the principle must apply to all statutory bodies consistently.

48. PSHA(Atg) explained that the proposed approval procedure had been drawn up in response to public concern about the inadequacy of existing monitoring mechanism for overseas duty visits of statutory bodies. He stressed that HAB had no intention to interfere with the work of EOC or PCO, but the Bureau had the responsibility to monitor expenditures of EOC and PCO. He pointed out that the three Secretaries of Department and the 11 Directors of Bureau, Permanent Secretaries, the Ombudsman as well as the Commissioner/Independent Commission Against Corruption (C/ICAC) were also required to seek the prior approval of the Chief Executive (CE) before they embarked on overseas duty visits. He said that he did not see there was a direct relation between the approval procedure and the independence of the bodies concerned.

49. PSHA(Atg) further said that PCO did not have an executive governing board. In the case of EOC, the Chairperson was an executive position and he himself would be the one to approve overseas duty visits conducted by him. There was a lack of check and balance in the system. PSHA(Atg) pointed out that for PCO, it was also the Privacy Commissioner who would approve his own overseas duty visits.

50. Mr Albert HO, however, remained of the view that the current proposal would undermine the independence of EOC and PCO and was also a move to

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take back powers from the two bodies. He requested the Administration to provide a paper on the monitoring systems for overseas duty visits adopted by other statutory bodies including those mentioned in paragraph 47 above. He considered that it was inappropriate to require the Privacy Commissioner and C/EOC, who were not responsible to SHA, to seek the prior approval of SHA before embarking on any overseas duty visits. He reiterated that the Commission should be entrusted to discharge the supervisory functions within EOC. He added that HAB would inevitably interfere with the day-to-day operations of the two statutory bodies if the proposed approval procedure was put into effect.

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51. PSHA(Atg) pointed out that the crux of the problem was that C/EOC and the Privacy Commissioner were the ones who oversaw the day-to-day operations of and decided on the use of resources for their respective organisations, including granting approval to their overseas duty visits. In reply to Mr Albert HO, PSHA(Atg) said that as far as he understood, there were three statutory organisations with such a governance structure and they were EOC, PCO, and the Securities and Futures Commission (SFC) which had an executive Chairperson or Commissioner. Ms Emily LAU requested the Administration to follow up and make necessary improvements to the governance structure of SFC and any other public organisations, e.g. the Monetary Authority.

52. PSHA(Atg) further said that since SHA was the Principal Official responsible for EOC and PCO under the accountability system, it was necessary for C/EOC and the Privacy Commissioner to seek the prior approval of SHA before embarking on overseas duty visits in order to ensure the proper use of public funds and accountability. He added that if members considered that it should be CE, instead of SHA, to grant approval, the Administration could also consider it.

53. C/EOC clarified that he was required to seek the prior approval of the Commission before embarking on any duty visits outside Hong Kong, and his last overseas duty visit had been approved by the Commission by circulation of papers. He added that if the Commission discussed any duty visit proposed by him and put the matter to vote at its meetings, he would abstain from voting.

54. The Privacy Commissioner pointed out that he was required by law to act independently in discharging his statutory functions as stipulated in section 8 of the Personal Data (Privacy) Ordinance (the Ordinance), and one of which was to liaise and cooperate with his overseas counterparts in respect of matters of mutual interest concerning the privacy of individuals in relation to personal data. He also invited members to note that pursuant to section 5 of the Ordinance, the Privacy Commissioner was capable of suing and being sued, and was not regarded as a servant or agent of the Government or as enjoying any status, immunity or privilege of the Government. He said that the Privacy

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Commissioner had to be personally responsible for any proven case of misbehaviour.

55. Mr James TO said that he hoped that the Administration's proposal would not be implemented. He agreed that the Commission should be the one to discharge the supervisory functions within EOC. As regards PCO, he suggested that the Personal Data (Privacy) Advisory Committee could be given the responsibility to consider or to approve any duty visits proposed by the Privacy Commissioner, as members of the Advisory Committee should be in a better position than the Administration to judge whether the purpose of any proposed duty visit complied with the statutory duties of PCO. Mr TO considered that the autonomy of EOC or PCO would be adversely affected once the decision over whether or not the purpose of a proposed duty visit complied with the statutory duties of PCO or EOC was to be made by the Administration and not by the bodies concerned. He also expressed worry that the current proposal was only the first step for the Administration to extend its control over the operations and activities of the two statutory bodies.

56. Mr TO further suggested that HAB could engage the Audit Commission to examine the cost-effectiveness of any overseas duty visits conducted by C/EOC or the Privacy Commissioner whenever HAB had doubt about the usefulness of a visit or about the use of resources in connection with a visit. He considered that this would put pressure on the two bodies to make improvements for tightening up internal control on this aspect. In reply to Mr TO, PSHA(Atg) said that it was the Government's decision to put up the current proposal.

57. Ms Emily LAU, Ms Margaret NG and Dr Fernando CHEUNG opposed the current proposal as they also considered that it would adversely affect the independent status of EOC and PCO and would belittle the two statutory bodies. They took the view that HAB would inevitably interfere with the work of the two bodies in implementing the proposed approval procedure. Ms LAU considered that the two statutory bodies should be allowed to regulate themselves, but they also needed to take measures to enhance the transparency of their administrative systems. She agreed that there was room for improvement with regard to the standards of corporate governance of EOC and PCO and, in particular, she wanted to see that the Commission would hold open meetings for discussion of non-confidential issues. She considered that the Administration should explore separating the posts of C/EOC and the Chief Executive Officer as well as providing for the establishment of a governing body for PCO. PSHA(Atg) pointed out that legislative amendments would be required to separate these two posts and it would take time to do so.

58. The Chairman also asked whether the Administration would suggest to EOC and PCO that they should consider introducing best practice in pursuit of high standards of corporate governance and to enhance the transparency and

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accountability of their administrative management. The Chairman said that by so doing, the proposed approval procedure could be spared. He added that some listed companies had set up audit committees to review their spending and no legislative amendment was required for that purpose.

Admin 59. PSHA(Atg) said that the discussion paper to be submitted by the Administration for the next regular meeting of the Panel would cover the improvements required for enhancing the corporate governance of EOC. He suggested that the subject could be discussed in detail at that meeting. He further said that there was no plan for the time being to conduct a review of the governance structure of PCO. He added that the Administration would, however, consider conducting such a review if it was considered necessary. Ms Emily LAU expressed support for conducting the review and making necessary improvements for PCO as soon as possible.

60. Ms Margaret NG said that she appreciated why the Administration considered that there was a need to take additional measures to ensure that public funds were used properly in relation to overseas duty visits of C/EOC and the Privacy Commissioner. She, however, considered that the proposed approval procedure was inappropriate. Ms NG was of the view that the following safeguards would be more effective and more appropriate than the proposed approval procedure –

- (a) requiring EOC and PCO to draw up clear guidelines governing the conduct of overseas duty visits and, in the case of EOC, such guidelines had to be endorsed by the Commission; and
- (b) requiring C/EOC and the Privacy Commissioner to notify CE, instead of SHA, of their proposed overseas duty visits.

In addition, Ms NG requested the following information to be provided for members' reference –

Admin (c) the Administration to provide supplementary information on the monitoring mechanism for overseas duty visits conducted by C/ICAC, the Ombudsman and the Chairperson of SFC; and

EOC and PCO (d) EOC and PCO to provide their respective Codes of Conduct on overseas duty visits and to explain, in writing, the criteria for approving such proposed visits.

61. Ms Emily LAU drew the Administration's attention to the following points raised by EOC and PCO in their respective submissions –

- (a) pursuant to the Sex Discrimination Ordinance (SDO), the only one thing in respect of which EOC must seek the prior approval

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of CE was for it to become a member of or an affiliate to any international body concerned with the elimination of discrimination;

- (b) the imposition of the approval requirement on overseas duty visits was inconsistent with the spirit of the existing Memorandum of Administrative Arrangements (MAA) between HAB and the Privacy Commissioner.

62. PSHA(Atg) responded that the Permanent Secretary for Home Affairs was the Controlling Officer of the recurrent account subheads created for EOC and PCO. PSHA(Atg) said that if he had any doubt about the deployment of public funds by these two bodies, he had the responsibility to ask for explanations from them.

63. Ms Emily LAU, however, said that this did not mean that C/EOC or the Privacy Commissioner had to seek prior approval from SHA before they could embark on any overseas duty visits. Dr Fernando CHEUNG also queried about the legal basis for requiring C/EOC and the Privacy Commissioner to seek prior approval from SHA before embarking on any overseas duty visits. PSHA(Atg) explained that pursuant to the Public Finance Ordinance, a controlling officer was responsible and accountable for all expenditure from any head or subhead for which he was the controlling officer. He said that SHA's authority to approve any proposed overseas duty visits of C/EOC and the Privacy Commissioner was based on the Public Finance Ordinance.

64. Dr CHEUNG remained in doubt as to whether the Public Finance Ordinance had really empowered SHA to require C/EOC and the Privacy Commissioner to first seek his approval before embarking on any overseas duty visits. He further asked that in the case of EOC, whether it would be the Commission or SHA who had the final authority in approving any overseas duty visits proposed by C/EOC, after the proposed approval procedure had been put into effect.

65. PSHA(Atg) responded that the Administration had now proposed to EOC and PCO to stipulate the currently proposed approval procedure by amending their respective MAA accordingly. He said that the Administration had been discussing with C/EOC and the Privacy Commissioner regarding the proposal and was still waiting for their formal replies. He further said that for the time being, C/EOC and the Privacy Commissioner had provided the relevant details of the visits to SHA, prior to their overseas duty visits, and SHA had granted approval to the proposed duty visits. C/EOC, however, pointed out that he had only done so pursuant to the established practice under the existing notification mechanism by which SHA had to be notified of any overseas duty visits in advance. He clarified that he had done so not for

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seeking SHA's prior approval. The Privacy Commissioner concurred with C/EOC's view pointing out that he had done the same as a matter of formality.

66. The Chairman considered that there should be very clear understanding among the Administration, EOC and PCO on this matter, and the relevant MAA had to be amended to incorporate the proposed approval procedure, if it was to be adopted. He said that since members who had expressed their views had unanimously opposed the proposed approval procedure, the Administration should take into serious consideration the concerns raised by members and revert to the Panel once it had reached a consensus with EOC and PCO on the matter. PSHA(Atg) agreed.

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VI. Follow-up discussion on rice distribution activities and related issues

[LC Paper Nos. CB(2)515/05-06, CB(2)576/05-06(06) & (07) and CB(2)588/05-06(01)]

67. Mr Fred LI expressed support for the proposed new conditions to be imposed on the Yu Lan organisations when organising the rice distribution activities in the coming year. Referring to the proposed conditions to be imposed on Yu Lan organisations for the Rice Distribution Events in 2006 in Annex B to the Administration's paper, Mr LI asked the Administration to clarify whether it was going to require the Yu Lan organisations to employ security guards to assist in crowd control on a mandatory or voluntary basis. He further suggested that the number of volunteer helpers to be provided by organisers should be calculated on the basis of anticipated number of elderly people who would participate in a rice distribution event and not on the basis of number of rice packets prepared to be distributed.

68. Director of Home Affairs (DHA) responded that the Administration did not propose that organisers had to employ security guards to assist in crowd control on a mandatory basis because it was not sure that there were sufficient security guards available to take up the job which was only of a temporary nature and not long-term employment. She said that, however, there was general consensus among various Yu Lan organisations that ensuring the safety of the elderly during the rice distribution events should be the primary concern and they would do their best to avoid recurrence of chaos during the events. As to the proposed basis for calculating the number of volunteer helpers to be provided, DHA explained that the number of rice packets prepared to be distributed during an event already reflected the scale of the event and therefore it could be used as a basis for calculating the number of volunteer helpers to be provided. She pointed out that sometimes it was difficult to accurately predict the number of elderly people who would turn up for a rice distribution event.

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69. The Chairman asked how the proposed new guidelines would be implemented. DHA replied that the Administration intended to introduce the new guidelines expeditiously. The Administration had sounded out the Yu Lan organisations on the proposed new conditions to be imposed on them, and they were generally amicable to the proposals.

70. Dr Fernando CHEUNG expressed appreciation of the efforts and positive response made by the Administration, the Yu Lan organisations and other parties concerned to improve the arrangements of the rice distribution events in future. He asked whether the proposed guidelines would be applicable to Yu Lan rice distribution events which took place in private venues.

71. DHA said that in the consultation with the Yu Lan organisations on the proposed new conditions, the great majority of them had agreed to comply with the proposed guidelines. She informed members that actually over 80% of the rice distribution events took place in Government venues or land, and some of the organisers of these events which took place in private venues had also expressed interest in organising the events in Government venues in future. In addition, the Administration had sought the agreement of the organisers who would continue to organise these events in private venues to comply with the proposed guidelines if they anticipated that the events would attract considerable number of elderly people. She pointed out that the organisers of rice distribution activities understood that the public had general expectation that they should make improvements to enhance existing rice distribution arrangement and ensure the safety of the elderly people during the events.

72. DHA further said that the Administration planned to launch territory-wide publicity activities in relation to the new proposed arrangements early next year. The Administration also planned to step up publicity to ensure that the elderly and their relatives realize that queuing up for long hours for “blessed rice” during Yu Lan Festival would pose serious health hazards to the elderly.

73. Dr CHEUNG said that some of the elderly people had participated in the rice distribution activities because they were very poor and had practical needs to get the rice. He hoped that after changing to hand out only small rice bags in future rice distribution events, the organisers would still be handing out rice to the needy elderly people through a rice coupon system or by any other ways which could facilitate their collection of the rice.

74. DHA responded that some of the organisers had no intention to reduce the overall amount of “blessed rice” they were going to distribute. While agreeing that only small rice bags should be distributed during the events, these organisers also agreed that they would still distribute larger rice bags or the residual “blessed rice” to the elderly who needed special help by enlisting the

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assistance of the social welfare sector, which had undertaken to render help in the areas as spelt out in paragraph 10 of the Administration's paper.

75. Ms Emily LAU stressed that the Administration and the organisers concerned must not allow recurrence of chaos or unfortunate incidents during the rice distribution activities for the sake of elderly people's well-being and the image of Hong Kong. Referring to paragraph 4 of the Administration's paper, Ms LAU considered that the poverty problem was also one of the factors accounting for the rising number of people queuing up for the "blessed rice" in recent years. She agreed with Dr CHEUNG that arrangements should be made to ensure that the needy elderly people would be able to get the "blessed rice" but they would no longer need to queue up for a very long time for the rice.

76. DHA clarified that according to the new guidelines, the organisers were required to distribute small rice bags only at the venue of a rice distribution event. They, however, could still distribute large rice bags to the elderly by other arrangements, such as enlisting the assistance of volunteer workers to deliver the rice bags to the homes of the elderly people in need. Ms LAU further asked what measures would be taken to obviate the need for the elderly people to queue up for a very long time for the "blessed rice" during an event.

77. DHA pointed out that it was now proposed that the weight of each rice bag be kept at not more than one kilogram, while cash or gift items other than rice bags should not be allowed during the rice distribution event. This requirement was expected to reduce the attractiveness of the rice distribution activities to the elderly population and discourage them from queuing up for the "blessed rice" for long hours, hence minimising risks that might be associated with congregation of large crowds.

78. Ms CHOY So-yuk sought clarification as to whether the Administration was going to require organisers of all charitable or community activities, e.g. distributing moon cake, in districts to provide adequate insurance cover for third party liability regardless of the scale of the activities concerned.

79. DHA responded that the Administration proposed that only the Yu Lan organisations which held rice distribution activities in Government venues or land were required to provide adequate insurance cover for third party liability throughout the event because, based on past experience, the scale of such activities, if held in Government venues or land, was usually large and incurred a greater risk of occurrence of chaos.

80. There being no other business, the meeting ended at 1:00 pm.