

立法會
Legislative Council

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LC Paper No. CB(2)1828/05-06
(These minutes have been seen
by the Administration)

Panel on Security

**Minutes of meeting held on Tuesday, 7 March 2006
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
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon WONG Yung-kan, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon CHOY So-yuk, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Hon CHIM Pui-chung

Members attending : Hon CHAN Yuen-han, JP
Hon WONG Kwok-hing, MH
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Ronny TONG Ka-wah, SC

Members absent : Dr Hon LUI Ming-wah, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS

Public Officers attending : Item IV
Mr Ambrose LEE
Secretary for Security

Mr Stanley YING
Permanent Secretary for Security

Miss S H CHEUNG
Deputy Secretary for Security

Mr Ian WINGFIELD
Law Officer (International Law)
Department of Justice

Item V

Mr Ambrose S K LEE
Secretary for Security

Mr Michael WONG
Deputy Secretary for Security

Mr T K LAI
Director of Immigration

Ms Helen CHAN
Assistant Director of Immigration

Item VI

Mr Michael WONG
Deputy Secretary for Security

Mr Alan CHU
Principal Assistant Secretary for Security

Miss Ada CHAN
Assistant Secretary for Security

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

Ms Alice CHEUNG
Legislative Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting

(LC Paper No. CB(2)1241/05-06)

The minutes of the meeting held on 3 January 2006 were confirmed.

II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)1134/05-06(01), CB(2)1224/05-06(01) and (02),
CB(2)1238/05-06(01), CB(2)1255/05-06(01), CB(1)915/05-06(01) and (02)
and CB(2)1287/05-06(01))

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

- (a) letter dated 8 February 2006 from the Joint Committee for the Abolition of Death Penalty to the Chief Executive (CE);
- (b) guidelines on the approach to the Public Order Ordinance in relation to public meetings and public processions provided by the Administration;
- (c) Administration's paper on the recent measures implemented by the Police in relation to public meetings and public processions;
- (d) reply dated 18 February 2006 from the Secretary for Security to the Joint Committee for the Abolition of Death Penalty;
- (e) draft Code of Practice for Civil Celebrants of Marriages provided by the Administration;
- (f) submission dated 13 January 2006 from the Hong Kong Fire Services Department Ambulancemen's Union and the Administration's response dated 9 February 2006; and
- (g) paper entitled "Visa Policy on Foreign Visitors" provided by the Administration.

III. Date of next meeting and items for discussion

Action

(LC Paper Nos. CB(2)1277/05-06(01) and (02))

3. Members agreed that the following items would be discussed at the next meeting to be held on 4 April 2006 at 2:30 pm -

- (a) Proposed Customs Headquarters Building; and
- (b) Redevelopment of Lo Wu Correctional Institution.

4. Members also agreed that a special meeting would be held on 11 April 2006 at 8:30 am to discuss the following items -

- (a) Fire Services Department Diving Training Centre in the Government Dockyard at Stonecutters Island;
- (b) Central Police District Headquarters and Central Police Division at Chung Kong Road, Sheung Wan; and
- (c) Police's undercover operations against vice activities.

(Post-meeting note : The items "Fire Services Department Diving Training Centre in the Government Dockyard at Stonecutters Island" and "Central Police District Headquarters and Central Police Division at Chung Kong Road, Sheung Wan" were subsequently deferred to the meeting in May 2006. The item "Police's undercover operations against vice activities" was advanced to the meeting on 4 April 2006.)

IV. Interception of communications and covert surveillance

(LegCo Brief Ref : SB CR 3/2/3231/94, LC Paper No. CB(2)1331/05-06(01) and (02))

5. Secretary for Security (S for S) and Permanent Secretary for Security (PS for S) briefed Members on the Administration's papers regarding pre-appointment checking and the panel of judges responsible for authorising interception of communications and the more intrusive surveillance operations.

6. Mr Ronny TONG asked why the tenure of panel judges was proposed to be three years. He also asked whether panel judges could be reappointed upon the expiry of the three-year period.

7. S for S responded that a three-year tenure was proposed because it was the usual term of tenure of many public offices. He said that the Administration was willing to consider the views of members regarding the tenure of panel judges.

Action

8. Mr Ronny TONG asked whether integrity checking would be conducted prior to the reappointment of panel judges.

9. S for S responded that integrity checking would be considered when, for example, there was a change in the family membership of an appointee. This was in line with the existing practice for integrity checking in general. He added that although an appointee was required to report any change of family membership, the circumstances of each case would be considered before a decision was made on whether checking would be required.

10. Mr Ronny TONG said that he had provided the Administration with a list of overseas precedents relating to covert surveillance on 6 March 2006. It could be noted from the case of *Scanfuture v. Secretary of State, Trade and Industry* that the automatic renewal of the appointment of judges was a significant safeguard in maintaining the independence of a tribunal.

11. Law Officer (International Law) (LO(IL)) responded that the cases referred to in Mr TONG's letter did not support the proposition that appointing the panel judges for a fixed period of time would undermine the independence of the panel judges. He pointed out that the Employment Appeal Tribunal in the case of *Scanfuture v. Secretary of State, Trade and Industry* did not consider that the fact that lay members of the employment tribunals were appointed by the executive and for a renewable period of three years raised a legitimate doubt as to the members' independence and impartiality.

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12. The Chairman suggested that Mr Ronny TONG should provide Members with a copy of his letter to the Administration, and requested the Administration to provide a written response on the issues raised in the overseas precedents referred to in the letter.

(*Post-meeting note* : The letter from Mr Ronny TONG to the Administration regarding overseas precedents was circulated to members vide LC Paper No. CB(2)1342/05-06 on 9 March 2006.)

13. Mr LEUNG Kwok-hung said that the Security Bureau should gauge public views on its legislative proposals through its web site and holding public consultation sessions.

14. S for S responded that the Administration would continue to hear public views on its legislative proposals, even after the bill on the proposals had been introduced into the Legislative Council (LegCo).

15. Mr LEUNG Kwok-hung asked whether superintendents of police had to undergo any integrity checking. Referring to paragraph 11 of the Administration's paper on pre-appointment checking, he said that checking should not be conducted on

Action

the association of family members of a prospective appointee.

16. S for S responded that it was the Administration's established policy that any person to be given access to highly sensitive materials had to undergo extended checking.

Adm

17. The Chairman requested the Administration to provide a written response on whether superintendents of police and Police officers involved in handling sensitive information were subject to the same integrity checking as that for panel judges.

18. Mr LEUNG Kwok-hung asked whether the Administration would adopt members' suggestions regarding the appointment of panel judges and informing the subject of interception of communications or surveillance afterwards of the activities conducted. Ms Margaret NG said that although she supported the authorisation of interception of communications and surveillance by judges, she did not support the appointment of panel judges by CE.

19. S for S responded that law enforcement agencies had expressed concern that their operational effectiveness would be seriously undermined if persons who were the subject of interception of communications or surveillance were notified afterwards of the operations. Nevertheless, the Administration would consider suggestions from Members on the issue. On the appointment of panel judges, he stressed that their appointment by CE on the recommendation of the Chief Justice was lawful, constitutional and reasonable.

20. Ms Margaret NG said that it was unnecessary to conduct checking on judges, whose daily work already involved frequent access to confidential information. She considered that the major issue was whether one trusted the judges. She queried whether it was appropriate for the Police or the Independent Commission Against Corruption (ICAC) to conduct checking on judges, given that they were the parties whose application would be considered by the judges. She further said that it would be very disturbing to judges and their family members, if checking was conducted whenever there was a change in their family membership.

21. Mr Albert HO asked why extended checking had to be conducted on panel judges.

22. PS for S responded that extended checking was an established procedure generally applicable to persons who had access to very sensitive information. As panel judges would be involved in handling very sensitive information, they would have to undergo extended checking similar to other persons who had similar access to such information.

23. Ms Margaret NG asked whether judges were currently subject to any integrity

Action

checking. Mr Albert HO asked whether judges were currently subject to integrity checking before appointment.

Adm

24. PS for S responded that there was currently a system of integrity checking and declaration of interest for judges. Checking was not a sign of distrust of a person. It was because a person was trusted that he was considered for the appointment. The purpose of checking was to confirm that trust and minimise any risks for the system and information under protection. There were examples where judges were subject to normal checking before appointment to certain posts. At the request of the Chairman and Ms Margaret NG, PS for S agreed to provide more information on such appointment.

25. Mr Albert HO asked whether integrity checking was conducted on judges responsible for similar authorisations in other jurisdictions.

26. PS for S responded that there was little public information on details of security vetting arrangements of other jurisdictions, but according to his understanding, checks of a similar nature to that of integrity checking in Hong Kong were conducted on judges in some overseas jurisdictions.

27. Mr Albert HO said that the proposed regime would put judges in a system outside the judiciary. He asked whether similar arrangements were found in other jurisdictions.

28. LO(IL) responded that the Administration's proposals were in line with the practices in other jurisdictions. He pointed out that in Australia, only eligible judges declared by the Minister and members of the Administrative Appeals Tribunal nominated by the Minister were responsible for authorising the interception of telecommunications and the use of surveillance devices for the investigation of crime. In the United States, applications for an order authorising foreign intelligence surveillance had to be made to one of the 11 federal judges of the Foreign Intelligence Surveillance Court. In the United Kingdom, all interception of communications and surveillance were authorised by the executive authorities.

Adm

29. Mr Albert HO requested the Administration to provide information on the capacity in which the judges in other jurisdictions authorised interception of communications and surveillance, and whether the judges were subject to any integrity checking.

30. Mr LAU Kong-wah said that if it was the established practice to carry out integrity checking on law enforcement officers responsible for authorising covert surveillance, the same checking should be conducted on judges who would take over such authorisation work, especially given that the public would expect panel judges to have a high standard of integrity. If it was the Administration's established practice to carry out integrity checking prior to renewal of appointment for persons involved in

Action

handling sensitive information, integrity checking should also be conducted on panel judges prior to their renewal of appointment. He considered that a three-year tenure for panel judges was an appropriate one.

31. Mr LAU Kong-wah also asked about the impact of the proposed authorisation by judges on cases pending court trial.

32. S for S responded that the Administration would provide the Judiciary with adequate manpower to cope with the additional workload arising from the authorisation of interception of communications and more intrusive covert surveillance by panel judges.

33. Mr LAU Kong-wah asked whether the appointment of a panel judge would be revoked by CE only on the recommendation of the Chief Justice. S for S replied in the affirmative.

34. Mr CHIM Pui-chung asked about the rank of a panel judge and whether a judge could refuse appointment as a panel judge. He also asked whether judges would be remunerated for serving as panel judges.

35. PS for S responded that a panel judge would, in addition to authorising interception of communications and the more intrusive surveillance, perform the usual duties of a judge of the Court of First Instance. A judge would be appointed as a panel judge only if he was willing to take up such responsibility, but would not receive any extra remuneration for performing the duties of a panel judge.

36. Mr CHIM Pui-chung asked whether panel judges, who would be appointed by CE, would have a tendency to authorise all applications for interception of communications or surveillance.

37. PS for S responded that the appointment of panel judges by CE would not affect the independence of panel judges when carrying out their statutory functions.

38. Mr CHIM Pui-chung asked whether the proposed authorisation by judges would change the Government into a judiciary-led one and whether this would be in contravention of the principle of separation of powers under the Basic Law.

39. S for S responded that the Government would not become a judiciary-led one with the proposed authorisation by panel judges. He said that the proposal sought to protect human rights while maintaining law and order in Hong Kong.

40. Mr CHIM Pui-chung asked whether the promotion prospect of a judge who refused to serve as a panel judge would be affected.

41. S for S responded that there was no question of CE or the Administration

Action

interfering with the promotion of judges. LO(IL) added that the appointment of judges to higher levels of courts was made by CE on the recommendation of the Judicial Officers Recommendation Commission chaired by the Chief Justice.

42. Mr Howard YOUNG said that under the proposals in the Bill, panel judges would be granting authorisations previously made by the executive authorities. He asked whether there would be any operational problems if judges were appointed in turn as panel judges for a period of three years.

43. S for S responded that the views of the Judiciary would have to be sought, if such an arrangement was to be adopted.

44. The Chairman disagreed with the view that panel judges would be granting authorisations which were previously made by the executive authorities. He said that previous authorisations of the executive authorities were unlawful and such authorisations should have been made by the Judiciary.

45. S for S disagreed with the view that authorisations of interception of communications and surveillance by the executive authorities were unlawful. He said that the past practice was unconstitutional because there was a lack of checks and balances. The Administration had considered the option of maintaining authorisation by the executive authorities while establishing an independent oversight body, which should still meet the relevant requirements. However, it had finally proposed authorisation of interception of communications and the more intrusive surveillance by panel judges.

46. The Chairman said that the independence of panel judges would be undermined, if they were subject to checking by the Police or ICAC. He considered that the possibility of abuse of integrity checking for political vetting should be carefully examined. The appointment of panel judges by CE would contravene the principle of separation of powers.

47. S for S responded that it was the Administration's established policy to conduct integrity checking on individuals before appointment to positions involving access to sensitive information. The appointment of panel judges by CE was consistent with the constitutional framework of Hong Kong. Such an arrangement could be found in other jurisdictions.

V. Quality Migrants Admission Scheme
(LegCo Brief Ref : SB CR 6/2091/04)

48. S for S briefed Members on the Quality Migrants Admission Scheme (QMAS), under which talented people would be allowed to take up residence in Hong Kong without having to secure a local job offer first. He informed Members that the

Action

Immigration Department (ImmD) had, by the end of January 2006, received 11 344 applications under the existing Admission Scheme for Mainland Talents and Professionals (ASMTP), among which 9 457 had been approved. By the end of January 2006, ImmD had received 1 154 applications under the Capital Investment Entrant Scheme, among which 624 involving a total investment of \$4.5 billion had been approved and another 157 applications had been approved in principle.

49. Mr WONG Kwok-hing said that he would oppose the proposed QMAS, unless it would not affect local employment opportunities. He asked how the Administration would ensure that the proposed scheme would not affect the employment opportunities of local employees. He also asked about the difference between the proposed QMAS and the existing schemes.

50. S for S responded that there was a need to bring in talented people from outside Hong Kong to meet the manpower needs of local enterprises and to enhance Hong Kong's competitiveness in the global market. He said that the proposed QMAS was different from the Supplementary Labour Scheme and ASMTP. About 20 000 professionals were admitted from other places per year. About 5 000 entrants were admitted per year under ASMTP. However, the quota for the proposed scheme was only 1 000 per year. Experience indicated that an average of about 1.5 new jobs were created per entrant under ASMTP. Thus, the proposed QMAS should create more employment opportunities for local people.

51. Mr WONG Kwok-hing asked about the composition of the selection committee. Miss CHAN Yuen-han and Mr LEUNG Kwok-hung considered that representatives of the labour sector should be appointed to the selection committee.

52. S for S responded that the Administration kept an open mind towards the composition of the selection committee, which would comprise members from different sectors of the community.

53. Mr LAU Kong-wah said that the admission of quality migrants was needed in principle in view of the ageing population. However, many parents were concerned whether the proposed scheme would affect the employment opportunities of their children who would graduate from local universities. He asked why entrants under the proposed scheme were not required to secure a local job offer first and why the stay of such entrants in Hong Kong could be extended for two years without any local job offer. He also asked why the upper age limit was set at 50.

54. S for S responded that experience indicated that an average of about 1.5 new jobs were created per entrant under ASMTP. Thus, the proposed scheme was likely to bring similar benefits to the economy of Hong Kong. He said that as there was global competition for talents, requirements that were too stringent might not be attractive to talents. To maintain flexibility in the scheme, entrants were not required to secure a local job offer first. The proposed age limits sought to address the

Action

problem of ageing population in Hong Kong.

55. Miss CHAN Yuen-han expressed concern that the requirements for admission under the proposed QMAS were relatively easy to meet, as an applicant was basically required to possess a first degree only. She questioned why the proposed QMAS was needed in addition to the existing schemes. She said that the Administration should not introduce a scheme merely because of demands from the business sector. It should assess the implications of the proposed scheme, such as that on education resources in Hong Kong.

56. S for S responded that the scheme was not proposed because of demands from the business sector, but because of global competition for talents. He said that although children of entrants would be allowed to enrol into government/subsidised local schools, many of them might choose to study in international schools.

57. Deputy Secretary for Security (DS for S) said that the main difference between ASMTP and QMAS was that the former required an applicant to secure a local job offer first, while applicants under QMAS had to compete for quotas. Although some Members were concerned about the impact of ASMTP on local employment when it was introduced about two years ago, it turned out that the scheme had not led to an increase in the unemployment rate. He added that similar schemes had been introduced in other countries.

58. Mr Howard YOUNG said that the Liberal Party welcomed the introduction of the proposed QMAS. He added that similar schemes had been introduced for many years in other countries, such as Australia, Canada and the United States. He asked whether employers who employed entrants under QMAS would have to submit any application to ImmD.

59. Director of Immigration (D of Imm) responded that employers would not be required to submit any application to ImmD when employing entrants under QMAS. However, they had to provide proof of employment when the entrants applied for extension of stay.

60. Mr Howard YOUNG asked whether more points would be awarded for academic qualifications acquired from overseas universities.

61. D of Imm responded that the same number of points would be awarded for similar programmes offered by different recognised universities.

62. Mr Howard YOUNG asked whether different points would be awarded for applicants of different sex so as to relief the imbalance of male and female population in Hong Kong.

63. S for S responded that both male and female applicants would be treated

Action

equally under the proposed scheme.

64. Mr LEUNG Kwok-hung expressed concern that the proposed scheme might be open to abuse, such as for the importation of illegal workers or mistresses. He asked how the Administration would prevent such abuse. He said that although an average of about 1.5 new jobs had been created per entrant under ASMTTP, the employment of a local talent might also create 1.5 new jobs.

65. S for S said that he was pleased to note that Members who had expressed views on the proposed QMAS had not objected to the admission of talents. To prevent abuse of the scheme, the Administration had drawn up the minimum requirements and established a points system. A selection committee comprising members from various sectors of the community would be set up to advise D of Imm on the allocation of the 1 000 annual quota. He stressed that ImmD possessed substantial experience in the vetting of the qualifications of applicants. Although the Administration could not preclude the possibility altogether that some applicants might seek to abuse its admission policies, so far the Administration had not received any complaint about abuse of existing schemes.

66. The Chairman said that the requirement of “achievement in a particular field” in paragraph 10(h) of the LegCo Brief should be made mandatory and revised as “outstanding achievement in a particular field”. Consideration should be given to disclosing the background of the talents admitted, with the consent of the talents concerned, to increase the confidence of the public and the labour sector in the proposed scheme. He added that the composition of the selection committee was vital to the prevention of abuse.

67. S for S responded that the Administration would consider the views of Members when determining the composition of the selection committee. He reiterated that the proposed scheme was drawn up in view of global competition for talents. If the requirements for admission were too stringent, the scheme might not be attractive to talents. The proposed points system and vetting by a selection committee would strike an appropriate balance between protection of local employment and attracting talents.

68. Miss CHOY So-yuk welcomed the proposed QMAS. Referring to paragraph 10(e) of the LegCo Brief, she asked whether awarding points to applicants whose children were Hong Kong permanent residents would encourage Mainland women to give birth in Hong Kong.

69. S for S responded that family connection in Hong Kong was only one of the factors where points would be awarded. Family connection alone would not be sufficient for enabling an applicant to come to Hong Kong.

70. Miss CHOY So-yuk asked whether applicants who met the requirements under

Action

the proposed scheme would be admitted on a first-come-first-served basis.

71. DS for S responded that the tentative plan was for the selection committee to conduct selection exercises on a quarterly basis. As the annual quota was 1 000, the quota for a quarter would be about 250.

72. Miss CHOY So-yuk asked whether applicants who were of Chinese origin but born overseas or of foreign nationality were eligible for admission under the proposed scheme.

73. S for S responded that the proposed scheme was open to applicants from all places, except those from countries/regions which posed security or immigration risks.

VI. Legislative proposals for the implementation of the co-location arrangement

(LC Paper Nos. CB(2)1277/05-06(03) and (04))

74. Members noted a submission from the Hong Kong Immigration Department Staff Association, which was tabled at the meeting.

(Post-meeting note : The submission tabled at the meeting was circulated to members vide LC Paper No. CB(2)1341/05-06 on 8 March 2006.)

75. DS for S briefed Members on the Administration's legislative proposals to underpin the implementation of the arrangement to co-locate Mainland and Hong Kong customs and immigration facilities on the Mainland. Referring to the first issue raised in the submission from the Hong Kong Immigration Department Staff Association, he said that the Administration had not yet identified any legislation which, when applied to the Hong Kong Port Area (HKPA), would give rise to grave difficulties in enforcement or implementation.

76. Mr LAU Kong-wah asked about the reasons for providing for the exceptions referred to in paragraphs 9 and 10(b) of the Administration's paper.

77. DS for S responded that although the Administration had not yet identified any legislation falling within the exceptions referred to in paragraphs 9 and 10(b) of the Administration's paper, there were numerous pieces of legislation in Hong Kong. The proposal sought to provide a mechanism for dealing with the situation where such legislation was identified. He said that an order made by the CE in Council to modify or exclude any legislation in its application to Hong Kong would be a piece of subsidiary legislation subject to scrutiny by LegCo.

78. Mr LAU Kong-wah asked whether the proposal in paragraph 10(b) of the

Action

Administration's paper sought to expressly provide that an order could be made by the CE in Council to modify or exclude the application of any legislation to HKPA. He also asked whether CE could, in addition to the issuance of such an order, issue another order to a totally different effect from that of the excluded legislation.

Adm

79. DS for S responded that after an order had been issued to exclude the application of certain legislation to HKPA, there might not be a need to issue another order in place of the excluded legislation. The Chairman requested the Administration to provide information on the issues considered by the Administration in coming up with the proposal in paragraph 10(b) of its paper.

80. Miss CHOY So-yuk asked whether the Administration would consider conducting only entry clearance but not exit clearance at control points, as was the practice adopted in the European Union.

81. DS for S responded that it was necessary to maintain exit clearance since some persons should not be allowed to leave Hong Kong. The abolition of exit clearance might also cause other problems, such as an increase in the number of overstayers. It was thus necessary to maintain exit clearance.

82. Referring to the submission from the Hong Kong Immigration Department Staff Association, Miss CHAN Yuen-han asked whether requiring ImmD personnel to work at HKPA would amount to unilateral change of the terms and conditions of employment.

83. DS for S responded that it appeared the consent of the existing personnel of ImmD would have to be sought before they were deployed to work at HKPA. Requirements for working at HKPAs would be included in the terms and conditions of employment for new appointees.

84. Miss CHAN Yuen-han asked about the impact of the proposed legislation on the insurance coverage for ImmD personnel working in HKPA, including insurance cover procured by individuals in the past.

85. DS for S responded that the coverage of employees' compensation for ImmD personnel working in HKPA would be the same as that for those working at other control points in Hong Kong. In the case of employees' compensation insurance, the major issue was whether an injury was sustained when the employee was on duty rather than the location where the injury was sustained. The Administration had discussed with the Hong Kong Federation of Insurers the impact of the proposed legislation on insurance cover procured by individuals. It noted that most insurance policies should be unaffected, although it would be necessary to examine the terms and conditions of individual insurance policies.

86. Miss CHAN Yuen-han said that there had been complaints about insurance

Action

companies using different means to evade settlement of insurance claims. She considered that the Administration should prudently study the effect of the proposed legislation on the insurance cover procured by individuals. She asked about the remedies available, if there was an oversight in the enactment of the proposed legislation. Senior Assistant Legal Adviser 1 said that if there was an oversight in the enactment of a piece of legislation, the problem would have to be rectified through the introduction of legislative amendments.

87. Miss CHAN Yuen-han said that the Bills Committee to be formed to study the proposed legislation should invite public views on the relevant bill. The Chairman suggested that Miss CHAN could convey her views to the Bills Committee to study the proposed legislation, if formed.

88. The Chairman said that issues involved in the proposed co-location legislation, especially issues relating to private contracts, were far more complicated than expected. He considered that the issues should be addressed through extending the territory of Hong Kong to cover HKPA. Referring to paragraph 5(a) of the Administration's paper, he asked how the authorisation of the relevant Central Authorities would be given.

89. DS for S responded that the Administration had considered the possibility of extending the territory of Hong Kong to cover HKPA, but noted that such extension would have wide implications and involve constitutional issues. He said that the Administration had conveyed to the Mainland authorities the Chairman's previous suggestion that the authorisation of the relevant Central Authorities be given through legal means. He undertook to inform Members how the authorisation of the relevant Central Authorities would be given.

Adm

90. The Chairman suggested that the exclusion of the application of certain legislation to HKPA should be made by way of primary legislation rather than subsidiary legislation. If the said exclusion was to be made by way of subsidiary legislation, the making of such subsidiary legislation should be subject to positive vetting by LegCo. DS for S agreed to consider the suggestion.

Adm

91. The Chairman asked about the Administration's timetable for introduction of the relevant bill into LegCo.

92. DS for S responded that, subject to the reply from the Mainland authorities regarding how the authorisation of the relevant Central Authorities would be given, the Administration hoped to introduce the relevant bill into LegCo within the current legislative session.

93. The meeting ended at 5:35 pm.

Action

Council Business Division 2
Legislative Council Secretariat
28 April 2006