

立法會
Legislative Council

LC Paper No. CB(2)986/09-10
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 5 January 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LAU Kong-wah, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon WONG Kwok-kin, BBS
Hon WONG Yuk-man
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun

Member absent : Hon Albert HO Chun-yan

Public Officers attending : Item IV
Independent Commission Against Corruption

Mr Timothy TONG Hin-ming
Commissioner

Ms Rebecca LI Bo-lan, IDS
Director of Investigation/Private Sector (Acting)

Mrs WONG CHEUK Wai-kuen
Assistant Director/Administration

The Administration

Miss Shirley YUNG, JP
Director of Administration (Acting)
Chief Secretary for Administration's Office

Item V

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mr Alan LO Ying-ki
Principal Assistant Secretary for Security

Mr Corrado CHOW
Assistant Director of Immigration (Enforcement and
Torture Claim Assessment)

Item VI

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mr Alan LO Ying-ki
Principal Assistant Secretary for Security

Mr CHAN Man-lang
Assistant Director of Immigration (Visa & Policies)

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Miss Josephine SO
Senior Council Secretary (2) 1

Mr Ian CHOW
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting

(LC Paper No. CB(2)602/09-10)

The minutes of the meeting held on 3 November 2009 were confirmed.

II. Information paper issued since the last meeting

(LC Paper Nos. CB(2)505/09-10(01), CB(2)546/09-10(01) and CB(2)599/09-10(01))

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

- (a) Letter dated 30 November 2009 from Action for REACH OUT, addressed to the Yau Tsim Mong District Council and the Commissioner of Police and copied to members of the Panel on Security;
- (b) Submission on Police's handling of sex workers; and
- (c) Referral from the Bills Committee on Domestic Violence (Amendment) Bill 2009.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)633/09-10(01) and (02))

Regular meeting in February 2010

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 2 February 2010 at 2:30 pm -

- (a) Employment service support for rehabilitated offenders; and
- (b) Review of e-Channel service.

Members agreed that the Society for Community Organization which had made a request earlier for attending the meeting should be invited to give views on item (a).

(Post-meeting note: At the special meeting on 8 January 2010, members agreed that the item on Police's handling of public meetings and public processions would be added to the agenda for the regular meeting on 2 February 2010.)

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Special meetings in January 2010

4. The Chairman reminded members that two special meetings had been scheduled for the Panel -

- (a) to discuss allegation of Mainland law enforcement officers taking enforcement actions in Hong Kong on 8 January 2010 at 10:45 am; and
- (b) to receive a briefing by the Commissioner of Police on the crime situation in 2009 on 27 January 2010 at 8:30 am.

5. Ms Audrey EU said that the Administration should be requested to provide a brief account of the incident in which persons believed to be Mainland law enforcement officers were alleged to have taken enforcement actions in Hong Kong on 27 December 2009 to arrest at Lo Wu Bridge the Hong Kong people who demanded the release of Mr LIU Xiaobo and the accompanying journalists. The photographs and video records of the incident should also be made available for members to view at the special meeting on 8 January 2010. The Clerk informed members that the Secretariat had already written to the Administration to request for the relevant information, including video records of the incident.

Visit to the Headquarters of the Fire Services Department

6. The Chairman said that the Administration had invited members to visit the Headquarters of the Fire Services Department on Monday, 18 January 2010, to better understand the operation of the Fire Services Communications Centre and the proposed Medical Priority Dispatch System. A circular would be issued shortly to invite members to indicate their interest in joining the visit.

Other issues

7. Ms Audrey EU expressed concern about the Administration's plan to enhance the information technology infrastructure of the Hong Kong Police Force. She asked whether and when the Administration would brief the Panel on the proposed project. She suggested that the matter be discussed at a future meeting.

(Post-meeting note: The Administration advised that it planned to brief the Panel at a later date on its proposal to enhance the information technology infrastructure of the Hong Kong Police Force with a view to improving internal information management and accessibility, enhancing operational efficiency and mobility as well as mitigating data leakage risk. With the concurrence of the Chairman, the issue had been added to the Panel's list of outstanding items for future discussion.)

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8. Ms Audrey EU was also concerned about the significant increase in the number of mainland ambulances providing cross-boundary medical transfer services in Hong Kong. She enquired whether the regulation and monitoring of mainland ambulances running in Hong Kong should be discussed by the Panel or at a joint meeting with other Panels. The Chairman asked the Clerk to seek clarification from the Administration on whether the subject of cross-boundary emergency ambulance service fell within the ambit of any particular policy bureaux.

(Post-meeting note: According to the Administration, the regulatory arrangements for cross-boundary ambulances were matters under the policy area of the Transport and Housing Bureau. It was also noted that the Secretary for Transport and Housing and the Secretary for Food and Health responded to an oral question on cross-boundary vehicles from the Mainland raised by Ms Audrey EU at the Council meeting on 18 November 2009.)

IV. Manpower situation in the Independent Commission Against Corruption

(LC Paper Nos. CB(2)370/09-10(07) and CB(2)633/09-10(03))

9. Commissioner, Independent Commission Against Corruption (C/ICAC) briefed members on the manpower situation in the Independent Commission Against Corruption (ICAC) as set out in the paper provided by ICAC.

Appointment of Commissioner, Independent Commission Against Corruption

10. Mr CHEUNG Man-kwong expressed concern about Mr Timothy TONG's continued appointment as the Commissioner of ICAC upon his reaching the retirement age of a civil servant in July 2009. Mr CHEUNG noted that Mr TONG was nominated by the Chief Executive (CE) for appointment by the Central People's Government (CPG) as the Commissioner in the third term of the Government of the Hong Kong Special Administrative Region (HKSAR) on 1 July 2007, and his appointment to the office of the Commissioner was initially made by way of a secondment. When Mr TONG retired from the civil service, the HKSAR Government employed him by way of a contract without making a formal announcement. Mr CHEUNG said that the way the Administration handled the continued appointment of Mr TONG after his retirement from the civil service was far from transparent. He criticized the Administration for not adopting a transparent approach in the matter.

11. Ms Audrey EU and Ms Cyd HO shared the view of Mr CHEUNG Man-kwong that the Administration should formally announce Mr TONG's retirement from the civil service and his subsequent re-appointment as the Commissioner on contract terms. They asked about the reason why the

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Administration did not have the intention to do so. They considered that if publishing a notice in the Gazette would help allay public concern, the Administration should consider doing so.

12. Director of Administration (Acting) (D of Adm (Atg)) responded that Mr Timothy TONG was appointed by CPG in 2007 as the Commissioner of ICAC. In accordance with the prevailing practice, he was seconded from the civil service to take up the office. Upon reaching the retirement age in July 2009, Mr TONG retired from the civil service. The Government thus employed him by way of a contract. D of Adm (Atg) said that to the knowledge of the Administration, Mr TONG's appointment had not been made on the basis of his civil servant status and, therefore, did not end upon his reaching the retirement age of a civil servant. As a matter of fact, Mr TONG's appointment was published in the Gazette on 1 July 2007. The appointment was to tie in with that of the third-term HKSAR Government to last until 30 June 2012. Since his appointment had yet to end, the Administration did not consider it necessary to make a separate notice in the Gazette to simply announce the change in the mode of employment in respect of Mr TONG. Nonetheless, in view of members' concern, the Administration would consider publishing a notice in the Gazette when there were similar cases in future.

13. Responding to Mr CHEUNG Man-kwong's enquiry about the tenure of office and retirement age for the post of Commissioner of ICAC, D of Adm (Atg) advised that the Commissioner of ICAC was not a civil service post. The appointee could be a civil servant, an ex-civil servant, a retired civil servant or a non-civil servant. There was no specified tenure or prescribed retirement age for the post of Commissioner of ICAC.

14. Ms Audrey EU expressed concern about the absence of a specified tenure of office and retirement age for the post of Commissioner of ICAC. She sought information on the number of posts in the public service which did not set any limit on the tenure or prescribe the retirement age. The Administration agreed to provide the requested information after the meeting.

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15. The Deputy Chairman took the view that it was more preferable for the post of Commissioner of ICAC be filled by an independent person or a retired civil servant than a serving civil servant who would return to the civil service upon the expiry of his appointment as the Commissioner. His view was echoed by Mr LEUNG Kwok-hung, Mr WONG Yuk-man and Ms Cyd HO.

16. Ms Cyd HO expressed concern about the criteria adopted by CE for determining the right candidate to be recommended for appointment as the Commissioner of ICAC. She stressed the importance and the need to introduce clear guidelines on the appointment and re-appointment of the Commissioner, and asked whether the Administration would adopt a policy of not posting back any commissioners of ICAC who was formerly on the civil service

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establishment to the civil service upon the expiry of his appointment for the purpose of ensuring the Commissioner's discharge of his functions without fear or favour.

17. In response, D of Adm (Atg) and C/ICAC made the following points -
- (a) the Basic Law provided that the Commissioner of ICAC was recommended by CE for appointment and removal by CPG. The Administration was of the view that the appointment of the Commissioner of ICAC was made on an *ad personam* basis. The objective was to get the best person for the job, having regard to the individual's ability, expertise and commitment to public service. The existing appointment system had been working well;
 - (b) impartiality was a very important attribute of the Commissioner of ICAC. Article 57 of the Basic Law required that the Commission should function independently and be accountable to CE. The Independent Commission Against Corruption Ordinance (Cap. 204) also made it clear that the Commissioner should not be subject to the direction or control of any person other than CE. The Commissioner should uphold impartiality and exercise full independence in handling corruption-related allegations, including those that might involve Members of the Legislative Council;
 - (c) the ICAC Operations Department was subject to monitoring by the Operations Review Committee (ORC) which comprised non-official members appointed by CE. ORC reviewed corruption complaints received and investigations conducted by ICAC to ensure that they were handled in a fair and just manner; and
 - (d) the appointee to the post of Commissioner of ICAC could be a civil servant, an ex-civil servant, a retired civil servant or a non-civil servant. The appointment of commissioners of ICAC from the civil service was a long-established practice and not uncommon in the past. Among the 13 past Commissioners of ICAC, four of them were retired civil servants when they took up their appointment with ICAC.

18. Ms Cyd HO remained of the view that the Administration should abandon the revolving door system for any civil servant appointed as the Commissioner of ICAC to return to the bureaucracy, since the commissioners who were formerly civil servants might have conflict of interests if they were allowed to return to the civil service.

19. The Deputy Chairman said that Mr TONG's cessation of being a member of the civil service might be an important point of consideration of CPG in

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deciding whether or not he should continue to be appointed as the Commissioner of ICAC. He asked whether the HKSAR Government had reported the change in identity of Mr TONG to CPG.

20. In response, D of Adm (Atg) reiterated that Mr Timothy TONG was nominated by CE for appointment by CPG as the Commissioner of ICAC in July 2007. According to the Government's understanding, Mr TONG's appointment was not made on the basis of his civil servant status. Hence, there was no need to report to CPG Mr TONG's retirement from the civil service.

21. In response to Ms Audrey EU's and Mr LEUNG Kwok-hung's enquiry, C/ICAC advised that although he was now employed on contract terms, the duties and responsibilities held by him, the terms and conditions of the appointment and the remuneration packages offered to him all remained unchanged. His tenure of office would tie in with that of the third-term HKSAR Government to last until 30 June 2012.

22. Mr WONG Yuk-man asked whether a pensionable civil servant who had retired from the civil service but subsequently re-appointed to public service or service in a relevant organization, such as ICAC, could receive his monthly pension during the term of his appointment.

23. D of Adm (Atg) replied that according to the relevant pension suspension provisions under the Pensions Ordinance (Cap. 89) and the Pension Benefits Ordinance (Cap. 99), the monthly pension of a pensioner might be suspended if he was re-appointed to the public service or appointed to service in any subvented organizations determined to be public service for the purpose of pension suspension by CE by notice in the Gazette.

24. Mr Paul TSE agreed that the appointment and re-appointment of the Commissioner, including the procedures and criteria adopted by CE for nominating the candidate for appointment and the tenure of office of the incumbent Commissioner, should be made more transparent. He shared the view that the Administration should review the appointment mechanism for the post of Commissioner of ICAC, in particular the appropriateness of maintaining the revolving door system for civil servants. He further suggested that the Administration should draw reference from the appointment of judges by appointing the Commissioner for life.

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25. Ms Cyd HO requested the Administration to provide further information regarding the arrangements for appointment of the Commissioner of ICAC in the fourth term of the HKSAR Government, including the criteria adopted by the fourth-term CE for nominating the person for appointment and the tenure of office of the incumbent Commissioner.

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Retention problem in the Commission Against Corruption Officer grade

26. Mr Paul TSE noted with concern that ICAC had experienced some problems with retention of staff, especially in the Commission Against Corruption Officer (CACO) grade. He asked whether ICAC had quantified the transaction cost incurred by the high turnover of staff, and whether the senior management of ICAC had considered any measures to retain talents, such as extending the duration of the contract period to last longer than the existing 2.5 years or raising the salary level of the staff.

27. Echoing Mr Paul TSE's view, Mr WONG Yung-kan considered that the Commission should provide more incentives to retain experienced officers.

28. In response, C/ICAC advised that -

- (a) ICAC had not quantified the transaction cost arising from staff wastage;
- (b) the situation in recruitment and retention as well as other challenges faced by ICAC had been examined in the context of the Grade Structure Review (GSR) of the Disciplined Services. The GSR Report recommended the enhancement of the pay scales of non-directorate ranks, including the CACO and surveillance grades, with a view to increasing the competitiveness of the remuneration packages and boosting staff morale; and
- (c) at present, over 99% of ICAC staff were employed on renewable agreement terms of 2.5 years in duration. In response to the concern of staff about job security, the Commission had been granting "linked contracts" of 2.5 years each to officers with good performance and conduct after the first 2.5-year contract.

29. Responding to the Deputy Chairman's enquiry, C/ICAC advised that the retention problem was relatively more severe in the CACO grade than other grades. The wastage rate of the CACO grade stood at 9.9% (79 officers) in 2007, 9.7% (76 officers) in 2008, and 5.4% (45 officers) in 2009. It was noteworthy that a sizable number of officers in the CACO grade left the Commission after completion of one or two agreements mainly because they had been attracted by the competitive packages offered by the private sector or other public bodies.

30. The Deputy Chairman asked about the total number of years lost due to the high wastage of officers appointed to the CACO grade. C/ICAC said that he did not have the information on hand and undertook to provide the requested information after the meeting.

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Staff recruitment at the rank of Assistant Commission Against Corruption Officer

31. Mr WONG Yuk-man noted that the minimum education qualification requirement for appointment as Assistant Commission Against Corruption Officer (ACACO) was attainment of five passes in the Hong Kong Certificate of Education Examination, and that the Commission received good response in the recruitment exercises for ACACO. He sought information about the academic qualification of all serving ACACOs in the Commission.

32. In response, C/ICAC advised that the Commission received good response in the CACO grade recruitment exercises, enabling the Commission to appoint candidates with higher education to fill the vacancies concerned. At present, over 80% of staff appointed to the ACACO rank were degree holders.

Cooperation with the Mainland against cross-boundary corruption

33. In reply to Mr LEUNG Kwok-hung's enquiry, C/ICAC advised that in view of the rapid growth in cross-boundary business activities in recent years, ICAC had been maintaining close liaison and cooperation with its counterparts in the Mainland, including the Ministry of State Security and the Supreme People's Procuratorate, in the exchange of information, undertaking enforcement operations and investigation, and organization of promotional activities and educational programmes on prevention of cross-boundary corruption.

V. Subsidiary legislation relating to the Castle Peak Bay Immigration Centre

(LC Paper No. CB(2)633/09-10(04))

34. Under Secretary for Security (US for S) briefed members on four amendment orders which the Administration planned to make for transferring the management of the Castle Peak Bay Immigration Centre (CIC) from Correctional Services Department (CSD) to Immigration Department (ImmD) and other related matters as detailed in the Administration's paper. He stressed that all of the four amendment orders were solely for the management of CIC by ImmD, without any change of the treatment of the detainees in practice.

35. The Deputy Chairman recalled that residents of Tuen Mun strongly opposed the establishment of CIC in the area. He referred to paragraph 2 of the Administration's paper and asked whether there was a decreasing demand for detention places at CIC and whether it should be closed since there was another detention centre of a similar nature at Ma Tau Kok in the urban area.

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36. In response, US for S stated that a liaison group comprising representatives from ImmD, CSD, the Hong Kong Police Force, Tuen Mun District Council, and neighbouring housing estates had been established in July 2005 in relation to CIC's operations. Over the past five years, the Administration and the liaison group had maintained close communication and Tuen Mun residents were currently relieved about CIC's operations in the area.

37. US for S emphasized that CIC, with a capacity of 400 detention places, had to be retained despite the decreasing demand. He explained that the Ma Tau Kok Detention Centre (MDC) had a capacity of 80 detention places and a daily occupancy of about 50 detainees. It was a facility for short term detention purposes. Since there were only about 30 spare detention places available at MDC and a daily average of over 200 detainees at CIC, it was necessary to keep CIC in operation. He assured members that the Administration was monitoring the demand for CIC.

38. Ms Cyd HO expressed concern about whether the four amendment orders would alter detainees' right in respect of visits by their legal advisers. US for S stated that the treatment of detainees at CIC would not be changed after the management of CIC was transferred from CSD to ImmD, including the arrangements in respect of visits by legal advisers and family members.

39. The Deputy Chairman stated that to his knowledge, the Commissioner of Correctional Services would allow the visits of prominent persons, with a reasonable cause, to detainees. He asked whether this arrangement would continue after ImmD took over the management of CIC.

40. US for S responded that although operations of CSD and ImmD were governed by different legislation, there would be no difference in the arrangements regarding visits to detainees. He mentioned that under the Prison Rules (Cap. 234A), each detainee had the right to be provided with a separate bed and adequate blankets. While there were no similar provisions under the Immigration (Treatment of Detainees) Order, ImmD would ensure, through administrative arrangements, that every detainee was provided with a separate bed and adequate blankets.

41. The Deputy Chairman questioned the rationale for implementing such a requirement through administrative rather than legislative means. He requested the Administration to provide a comparison of the treatment of detainees, plus the relevant legislation, before and after ImmD took over the management of CIC from CSD.

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VI. Quality Migrant Admission Scheme and Capital Investment Entrant Scheme

(LC Paper Nos. CB(2)633/09-10(05) and (06))

42. US for S briefed members on the latest position regarding the implementation of the Quality Migrant Admission Scheme (QMAS) and the Capital Investment Entrant Scheme (CIES), as detailed in the Administration's paper.

Quality Migrant Admission Scheme

43. Mr CHEUNG Man-kwong referred to the background information of successful applicants provided in Annex I of the Administration's paper. He noted with grave concern that after the relaxation of selection criteria in 2008 to allow younger degree holders in the 18 to 29 age groups with less than five years' working experience or even no working experience to enter the selection pool, a higher number of people with such background were admitted to Hong Kong under QMAS. In his view, the relaxed requirement would cause negative impact on the employment opportunities of young people in Hong Kong. He queried whether the underlying purpose of QMAS would be defeated if the minimum requirement for admission was too low.

44. US for S responded that the revised QMAS aimed to cast the net wider for talents from places all over the world and expand the pool of candidates for selection. Under the revised QMAS, an applicant with less working experience would be able to attain the passing mark for further assessment through the General Points Test (GPT). However, a passing mark did not guarantee his admission under QMAS. He would still have to compete with other applicants for the allocation of quota. US for S emphasized that each application with a score above the passing mark would be assessed by the Advisory Committee on Admission of Quality Migrants and Professionals (the Advisory Committee) on its individual merits. The Advisory Committee would consider factors, such as the university at which the applicant had graduated, whether the applicant had furthered his studies overseas, his proficiency in languages other than Chinese and English, the expertise of the applicant, whether the applicant had other achievements in school or at work, before determining whether the applicant should be allocated a quota. US for S pointed out that although the quota for QMAS was 1 000 per year, only 956 applications had been approved under GPT since the revised QMAS was put in place. This showed that the Advisory Committee had diligently discharged its gate-keeping responsibility. It was also noteworthy that the overall academic qualifications of the successful QMAS applicants remained at a high level, as about 60% of them had qualifications at master degree or two bachelor degrees level or above.

45. Assistant Director of Immigration (Visa & Policies) (AD of Imm(VP)) cited two cases and added that many successful applicants, despite holding a

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bachelor degree, might have extensive knowledge and ample working experience in their respective fields.

46. Mr LEUNG Kwok-hung shared Mr CHEUNG Man-kwong's concern about the impact of QMAS on the employment opportunities of young people in Hong Kong. He asked whether the Administration would review the selection criteria under QMAS.

47. US for S responded that since the implementation of QMAS in June 2006, only 1 333 applicants were approved to enter Hong Kong. The figure was indeed small and hence, the impact on the employment opportunities of local graduates should be insignificant. US for S further said that there was a need to bring in talented people from outside Hong Kong to meet the manpower needs of the local economy and to enhance Hong Kong's competitiveness in the global market.

48. Mr CHEUNG Man-kwong remained of the view that it was undesirable for degree holders without any working experience to be admitted under QMAS. He said that it would create more competition within the local job market, affecting in particular the employment opportunities of young people in Hong Kong. He considered that the Administration should review and consider tightening up the eligibility criteria under QMAS for scheme entrants admitted through GPT.

Capital Investment Entrant Scheme

49. Ms Audrey EU expressed concern whether the Administration had assessed the impact of investors investing capital in real estate under CIES on the price of real estate in Hong Kong. Referring to the Administration's reply to a written question raised by Hon Miriam LAU at the Council meeting on 11 November 2009, she noted that the governments of Australia, Canada, the United Kingdom (UK) and Singapore had implemented similar investment immigration schemes. However, the permissible investment classes under the relevant schemes in Australia, Canada and UK did not cover real estate. In Singapore, although the entrant was allowed to invest in real estate, the investment made by him on residential property for self-occupation could not exceed 50% of his total investment amount. Ms EU enquired whether the Administration would draw experience from overseas and impose conditions on investment under CIES, such as setting a maximum investment limit on real estate or removing the property market option.

50. In response, US for S made the following points -

- (a) as at November 2009, only 29% of the annual investment made under CIES was in the property market, which was more or less the same as that for the first year after the scheme was launched;

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- (b) CIES had brought Hong Kong some HK\$40.1 billion capital investment since its introduction in October 2003, of which around HK\$11.7 billion went to the property market. This amount was less than 1% of the total trading volume in the property market in the same period, which amounted to around HK\$2.4 trillion. Hence, the Administration considered that CIES did not and would not have much effect on the local property market;
- (c) to attract new capital into Hong Kong, the Administration considered it necessary to provide capital investors with greater flexibility to make their own investment choices. To this end, a wide range of investment options, covering real estate, equities, debt securities, certificates of deposits, subordinated debts, and eligible collective investment schemes, were offered under CIES. Nevertheless, to balance the interests of the prospective entrants and the community as a whole, the Administration had imposed a "ring-fencing" requirement on the requisite amount of capital, with a view to ensuring that an entrant would not reduce his initial investment commitment during the time when he was permitted to stay in Hong Kong under CIES. The "ring-fencing" requirement, applicable to both real estate and financial assets, also restricted the withdrawal of investment and the transfer of investment return to other regions within seven years; and
- (d) the Administration would review CIES, including the permissible investment asset classes, from time to time with a view to improving its attractiveness to investors.

51. Responding to the Deputy Chairman's enquiry, AD of Imm(VP) advised that the information provided in Annex II of the Administration's paper on the distribution of investment amongst the six permissible asset classes only showed the investment choices of capital investors at the time their applications for admission were approved. The Administration did not have readily available statistics on the subsequent flow of capital amongst various permissible asset classes. According to the experience of ImmD, very few capital investment entrants invested in real estate switched the financial assets to other qualifying investment during their residence in Hong Kong. Even if a capital investment entrant sold the qualifying investment, he could continue to qualify under the scheme if he invested the entire proceeds from the sale of his original property in other permissible investments after deducting the amount of the original mortgage loan, if any, secured by the property.

52. Notwithstanding the Administration's explanation, the Deputy Chairman and Mr LEUNG Kwok-hung shared the concern of Ms Audrey EU that the money brought in by capital investment entrants could create pressure on the

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prices of real estate. The Deputy Chairman requested the Administration to provide a comparison of the switch of investments amongst the six permissible asset classes over the years since the implementation of CIES.

53. US for S stressed that as an open market economy, any non-Hong Kong residents could choose to invest in Hong Kong's properties and shares without going through CIES, as long as the funds were legitimate.

(Members agreed to extend the meeting by 15 minutes.)

54. Mr LEUNG Kwok-hung and Mr Paul TSE noted that when CIES was first introduced, Mainland residents were excluded from the scheme and the scope of application only covered foreign nationals, residents of the Macao Special Administrative Region, Chinese nationals who had obtained permanent resident status in a foreign country, stateless persons who had obtained permanent resident status in a foreign country with proven re-entry facilities and Taiwan residents. Knowing that among those 5 676 principal applicants who had been approved to enter Hong Kong under CIES, 4 351 of them were Chinese nationals with overseas permanent residence, Mr LEUNG and Mr TSE expressed concern whether the primary objective of the scheme to attract the inflow of capital from places all over the world was attained in circumstances when a vast majority of the successful applicants were Chinese nationals.

55. Mr Paul TSE considered it an appropriate time to review CIES which had been implemented for six years. He noted that in some Western countries where similar capital investment schemes were implemented, their governments would encourage persons to bring in capital and to engage in the running of business, since this could create more employment opportunities and thereby generating more economic benefits. Mr TSE considered that the Administration should study and make suitable reference to overseas experience in reviewing the effectiveness of CIES.

56. In response, US for S said that the Administration was fully aware of members' concerns. It would review the scheme from time to time, with a view to improving its attractiveness to investors.

57. Mr WONG Yuk-man criticized the Administration for failing to balance the interest of the prospective entrants and the general public, in implementing CIES. He said that the negative impact of investors investing capital in real estate and financial assets under CIES was apparent, as evidenced by the sharp rise in the prices of commercial and residential properties and the climb in rental in recent years. He cautioned that the scheme would only widen the disparity between the rich and the poor in Hong Kong.

58. Mr IP Kwok-him expressed support for the continued implementation of QMAS and CIES. He asked whether the Administration had assessed the

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effectiveness of the two schemes which had been implemented for three and six years respectively, and whether the Administration found the results satisfactory.

59. US for S responded that as explained in the Administration's paper, QMAS and CIES had contributed to the development of Hong Kong by attracting talented people and capital investors. Many local business sectors, in particular finance, commerce, real estate, property agency, construction and interior decoration, had benefited directly or indirectly from the schemes. The Administration would review the two schemes from time to time to ensure that they could meet the needs and challenge of the Hong Kong society.

60. Concluding the discussion, the Chairman requested the Administration to take note of members' concern and, if a review was to be conducted on the two schemes, to revert to the Panel on the results of the review once available.

61. The meeting ended at 4:52 pm.

Council Business Division 2
Legislative Council Secretariat
26 February 2010