

立法會
Legislative Council

Ref : CB2/PL/SE/1

LC Paper No. CB(2)1249/04-05
(These minutes have been seen
by the Administration)

Panel on Security

**Minutes of meeting held on Tuesday, 1 February 2005
at 2:30 pm in the Chamber of the Legislative Council Building**

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

Members attending : Hon Emily LAU Wai-hing, JP
Hon Ronny TONG Ka-wah, SC

Member absent : Hon Andrew LEUNG Kwan-yuen, SBS, JP

Public Officers attending : Item III

Mr Ambrose S K LEE, IDSM, JP
Secretary for Security

Mr Stephen S L LAM, JP
Secretary for Constitutional Affairs

Ms Linda K P SO
Principal Assistant Secretary for Security

Ms Eva Y L YAM
Principal Assistant Secretary for Constitutional Affairs

Item IV

Mr Michael WONG
Deputy Secretary for Security

Ms Linda SO
Principal Assistant Secretary for Security

Mr Y S WONG
Assistant Secretary for Security

Mr Raymond WONG
Assistant Director of Immigration (Information Systems)
Immigration Department

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

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

Action

I. Information paper issued since the last meeting
(LC Paper No. CB(2)735/04-05(01))

Members noted that a paper provided by the Administration on the assistance to Hong Kong people affected by tsunamis had been issued since the last meeting.

Action

II. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)760/04-05(01) and (02))

2. Members agreed that the following items would be discussed at next meeting to be held on 1 March 2005 at 2:30 pm -

- (a) Issues relating to allegation of Mainland public security officials taking enforcement actions in Hong Kong; and
- (b) Automated Immigration Clearance : Proposal to amend the Immigration Ordinance (Cap. 115).

3. Regarding the item "Computer Systems for the Immigration Department at the New Control Point for the Lok Ma Chau Terminus of the Sheung Shui to Lok Ma Chau Spur Line" proposed by the Administration, members agreed that the Administration should be requested to provide an information paper before a decision was made on whether the item should be discussed by the Panel.

III. Immigration policy and procedures in respect of applications for visit visas/entry permits

(LC Paper No. CB(2)760/04-05(03))

4. Members noted the verbatim transcripts of radio interviews with the Secretary for Security (S for S) and Mr CHENG An-guo on 10 January 2005, which were tabled at the meeting.

(Post-meeting note : The verbatim transcripts tabled at the meeting were circulated to members vide LC Paper No. CB(2)842/04-05 on 7 February 2005.)

5. The Chairman said that members of the Panel on Constitutional Affairs had been invited to join the discussion on this item. He informed Members that Ms Emily LAU had suggested that the Panel on Security should write to Mr MA Ying-jeou inviting him to provide information about his entry permit application. He had given thorough consideration to the suggestion with the legal adviser to the Panel and the Clerk. He had also studied the verbatim transcripts of radio interviews with S for S and Mr CHENG An-guo on 10 January 2005. As the verbatim transcripts had reflected the facts relating to Mr MA's application, he considered it not necessary to write to Mr MA for the time being, unless such a need arose from Members' discussion on the item.

6. Ms Emily LAU said that she respected the decision of the Chairman. She hoped that the Panel would consider seeking information from Mr MA Ying-jeou, if such a need arose.

Action

7. At the invitation of the Chairman, S for S briefed Members on the Administration's paper regarding its immigration policy and practices in respect of applications for visit visa/entry permits. Secretary for Constitutional Affairs (SCA) informed Members that since the resumption of sovereignty, matters between Hong Kong and Taiwan had been dealt with in accordance with the guiding principles announced by Mr Qian Qi-chen, the former vice Premier in 1995 (Qian's Seven Principles). Under Qian's Seven Principles, the HKSAR Government had all along promoted trade and cultural exchanges between Hong Kong and Taiwan. Developments on these fronts were quite apparent. For example, in the first eight months of 2004, the total bilateral trade between Hong Kong and Taiwan exceeded \$130 billion, representing a 20% increase over the corresponding period in 2003. Between 1999 and 2003, the bilateral trade between Hong Kong and Taiwan had increased at an average rate of six percent per annum. About 10 % of the applicants under the Capital Investment Entrant Scheme were Taiwan residents. Since the introduction of the iPermit scheme for Taiwan residents in March 2002, over 500 000 iPermits had been issued. Two million Taiwan residents had visited Hong Kong in 2004, representing an increase of 20% since the resumption of sovereignty. He added that the Administration would continue to enhance exchanges between Hong Kong and Taiwan in accordance with the established policy and relevant laws.

8. Dr Philip WONG said that it was the international practice that the reasons for the refusal of a visa application were not disclosed. Being a good friend of Mr MA, he believed that Mr MA would not provide the Panel with information about his application, even if the Panel so requested. He considered that the Administration should act in accordance with the law and in line with the international practice.

9. Mr Howard YOUNG said that many visitors holding valid visas and travel documents had been refused entry at the immigration counters in the United States (US). He asked whether such a situation was also found at the immigration counters in Hong Kong.

10. S for S responded that it was the international practice that even when a visitor was holding a valid visa for entry into a country, whether the visitor would be allowed to enter the country would be determined by the immigration officer on duty at the immigration counter in accordance with the immigration policy of the country. The practice adopted in Hong Kong was in line with such an international practice. There had been occasions where suspicious visitors were refused entry at the immigration counters in Hong Kong.

11. Mr Albert HO asked how the Administration applied Qian's Seven Principles in considering the visa applications of Taiwan officials. He also asked how the Administration would assess whether an applicant's presence would prejudice Hong Kong's relations with the Central People's Government (CPG) and whether it would consult CPG or seek CPG's approval.

Action

12. S for S responded that all visit visa/entry permit applications were processed by the Immigration Department (ImmD) in accordance with the relevant laws and the established policy. In cases where an application involved matters relating to contacts with Taiwan, Qian's Seven Principles would apply. SCA added that according to Qian's Seven Principles, Taiwan residents could enter and leave the Hong Kong Special Administrative Region (HKSAR) in accordance with the laws of the HKSAR. Where official contacts with Taiwan officials were involved, the matter should be reported to CPG for approval, or approved by the Chief Executive under specific authorisation of the CPG.

13. The Chairman asked whether Qian's Seven Principles had any legal effect. He also asked whether there was any conflict between Qian's Seven Principles and immigration-related legislation.

14. S for S responded that applications for a visit visa/entry permit were considered by the Director of Immigration (D of Imm) in accordance with relevant laws and the established policy. Where an application involved matters relating to contacts with Taiwan, Qian's Seven Principles would apply. There was no conflict between Qian's Seven Principles and immigration-related legislation.

15. Mr Albert HO said that under Article 154 of the Basic Law (BL154), the HKSAR Government might apply immigration controls on entry into, stay in and departure from the HKSAR by persons from foreign states and regions. He asked whether the central government's policy and Qian's Seven Principles could prevail over BL154 and restrict the HKSAR's powers under BL154. He questioned whether part of the HKSAR's powers under BL154 was exercised by the central government.

16. S for S said that the HKSAR's powers under BL154 originated from CPG. D of Imm was empowered under the law to decide whether to approve applications for visit visa/entry permit. As Qian's Seven Principles set out the policy in respect of contacts with Taiwan, there was no conflict between Qian's Seven Principles and immigration-related legislation. SCA added that the Central Authorities took the lead in dealing with the Taiwan issue. Qian's Seven Principles were policy directives intended for facilitating continued exchanges between Hong Kong and Taiwan.

17. The Chairman asked whether a Taiwan official's visit to Hong Kong for the purpose of sightseeing or shopping but no contact with any official of the HKSAR Government was regarded as an official contact.

18. SCA responded that official contacts covered the contacts of Taiwan residents holding official positions in Taiwan with the HKSAR Government. S for S added that each case had to be examined having regard to its circumstances. Even where a Taiwan official claimed that he would visit Hong Kong in his private capacity, his purpose of visit and the nature of the activities which he would join had to be examined having regard to the circumstances of the case concerned.

Action

19. Mr CHEUNG Man-kwong asked whether the decision of not allowing Mr MA to enter Hong Kong was made by the Administration or the central government. He also asked whether the decision was made on political or security grounds.

20. S for S responded that it was the established policy that information about individual immigration cases would not be disclosed. The disclosure of personal data would be unfair to the applicants concerned. He assured Members that D of Imm's decision regarding whether to approve a visit visa/entry permit had to be made in accordance with the relevant laws and the established policy. Each decision was made in the best interests of Hong Kong.

21. The Chairman said that S for S had said in a radio interview on 10 January 2005 that the Administration had not, up to that moment, refused the entry application of Mr MA. He said that if S for S had disclosed information about Mr MA's case on a radio programme, there was no reason why S for S could not disclose the information requested by Members.

22. S for S responded that it was the established policy that information about individual cases was not made public. As there were rumours around the time of the radio interview that Mr MA's application had been rejected, he had taken the opportunity to clarify that D of Imm had not rejected Mr MA's application.

23. Mr CHEUNG Man-kwong said that what S for S had disclosed in the radio interview was only part of the facts. He considered that what S for S and Mr CHENG An-guo had said in the radio interviews on 10 January 2005 had aroused public concern and discomfort. He added that a senior Mainland official had recently said that Taiwan residents were welcome to visit Hong Kong to better understand the implementation of the "one country, two systems" principle. However, Mr MA had been deprived of such an opportunity. He asked whether Hong Kong had given up its role of promoting the unification of the country. He also asked whether the decision of not allowing Mr MA to visit Hong Kong was a mistake.

24. S for S reiterated that D of Imm's decision regarding whether to approve a visit visa/entry permit application was made in accordance with the relevant laws and the established policy. In view of Mr MA's official position in Taiwan, the handling of his application was different from that of other applications.

25. SCA said that the unification of the nation and the long term relations between HKSAR and Taiwan were not dependent upon whether or not a particular visit took place. He said that since the resumption of sovereignty, exchanges between Hong Kong and Taiwan had increased and over 500 000 iPermits had been issued. The Administration would continue with its established policy regarding relations with Taiwan.

26. Ms Emily LAU said that Mr MA's case had given people the impression that Hong Kong's autonomy had diminished. She pointed out that under BL154, the

Action

HKSAR Government might apply immigration controls on entry into, stay in and departure from the HKSAR by persons from foreign states and regions. She asked whether the handling of Mr MA's application differed from others in that Mr MA's application had to be approved by the central government. Referring to the verbatim transcripts of radio interviews with S for S and Mr CHENG An-kuo on 10 January 2005, she asked whether the Administration had in effect rejected Mr MA's application.

27. S for S reiterated that it was the Administration's established policy not to comment on individual cases. He said that D of Imm had always acted in accordance with the law and the established policy. What he had said in the radio interview was only the facts. In view of Mr MA's official position in Taiwan, the handling of his application was different from that of other applications. SCA added that according to the Sixth Principle of Qian's Seven Principles, official contacts with Taiwan officials should be reported to CPG for approval, or approved by the Chief Executive under specific authorisation of the CPG. However, whether an application for visa/entry permit should be approved was to be decided by D of Imm in accordance with the law and the established policy.

28. Ms Emily LAU said that D of Imm had imposed conditions on the visit visa/entry permit of some visitors in the past. She asked whether D of Imm had imposed conditions in Mr MA's case. S for S responded that he was not in a position to comment on individual cases.

29. The Chairman asked whether the Administration had applied Qian's Seven Principles in vetting Mr MA's application.

30. S for S responded that as a general rule, the visit of any senior Taiwan official to Hong Kong had to be handled cautiously. D of Imm would handle such cases in accordance with the law and the established policy.

31. Mr Ronny TONG said that the power of D of Imm to approve or reject a visit visa/entry permit application was not unlimited. He considered that if it was the Administration's established policy not to comment on individual cases, S for S should not have said in the radio interview that D of Imm had not rejected Mr MA's application. He questioned why S for S had said so in the radio interview.

32. S for S responded that what he had said in the radio interview were only the facts, as ImmD was still processing Mr MA's application at that point of time and D of Imm had not made any decision in respect of the application.

33. Mr Ronny TONG asked whether Mr MA's application had to be approved by the central government. S for S responded that he was not in a position to comment on matters regarding relations with the central government.

Action

34. The Chairman asked how an application for visit visa/entry permit was rejected by D of Imm. S for S responded that in case an application was rejected, the applicant would be notified in writing.

35. The Deputy Chairman asked whether the rejection of a person's application for visit visa/entry permit implied that any future application by the same applicant would also be rejected.

36. S for S responded that the refusal of an application on a particular occasion did not preclude favourable consideration of a future application by the same applicant.

37. Miss Margaret NG said that under BL24, Chinese citizens born in Hong Kong before or after the establishment of the HKSAR had right of abode (ROA) in the HKSAR. She asked whether the Administration suspected that Mr MA was not born in Hong Kong or was not a Chinese citizen. She said that the responses given so far by S for S reflected that Mr MA had submitted an application for entry permit. She considered that the Administration should have informed Mr MA that it was not necessary for him to submit an application for entry into Hong Kong, as Mr MA was born in Hong Kong and therefore had ROA in Hong Kong under BL24. The Chairman added that many people were aware that Mr MA was born in Hong Kong at Kwong Wah Hospital and had received his birth certificate during his last visit to Hong Kong.

38. S for S responded that he was not in a position to comment whether a particular person had ROA in Hong Kong. He said that any person claiming ROA under BL24 should apply to ImmD in accordance with the established procedures for verification of ROA status. He pointed out that Mr MA had applied for a visit visa/entry permit in his capacity as a Taiwan resident and Mr MA's choice should be respected.

39. Mr WONG Yung-kan asked whether Mr MA had submitted his application in his capacity as a Taiwan resident. He asked whether ImmD had applied Qian's Seven Principles in vetting Mr MA's application.

40. S for S responded that it was the Administration's established policy not to comment on individual cases. He said that applications from Taiwan residents for entry into Hong Kong were processed by ImmD in accordance with the established policy and procedures.

41. The Chairman requested the Administration to provide the procedural manual of ImmD relating to the vetting of visit visa/entry permit applications from Taiwan residents. S for S undertook to seek legal advice before providing a response.

42. Mr LAU Kong-wah said that the Administration should not have disclosed information about Mr MA's case. The Administration should adhere to its past practice, which was also the international practice, of not disclosing information

Admin

Action

relating to individual immigration cases. S for S noted the views of Mr LAU.

43. Mr LAU Kong-wah asked whether there were differences in the policies and procedures for handling applications for entry from officials of the Mainland, Taiwan and Macau. He also asked whether such policies were laid down by the central government.

44. S for S responded that visit applications from Mainland residents including officials were processed by the relevant Mainland authorities, whereas those from Taiwan residents including those holding official positions had to be processed by ImmD. Macau officials might apply for entry permit applicable to ordinary Macau residents. The immigration policies on such persons were laid down by the HKSAR Government.

45. Mr LEUNG Kwok-hung considered that persons born in Hong Kong should be allowed to enter Hong Kong at any time. He questioned whether immigration policy could prevail over an individual's rights under BL. He also questioned whether Qian's Seven Principles would apply whenever Mr MA, being the Mayor of Taipei, applied for entry into Hong Kong, regardless of his purpose of visit. He considered that the Administration had deliberately misinterpreted the law and its decision regarding Mr MA's application was a political one.

46. S for S responded that the Administration was not in a position to comment on individual cases. He disagreed with the view that the Administration had deliberately misinterpreted the law. He said that there was no conflict between D of Imm acting in accordance with the law and the established policy.

47. The Chairman asked whether there were cases where entry applications were not approved after the visitor's scheduled date of entry into Hong Kong. He also asked about ImmD's performance pledges in respect of the processing of entry permit applications from Taiwan residents.

48. S for S responded that ImmD had always tried to process each visit visa/entry permit application as soon as possible. For Taiwan visit permits valid for a stay of 14 days or less, the pledge was to process the application within two working days. For Taiwan visit permits valid for a stay exceeding 14 days, the pledge was to process 90% of the applications within 15 working days. Although more than 99% of the applications were processed within the performance pledge, there were some cases which took more time to process.

49. Miss CHOY So-yuk asked whether a visit visa/entry permit must be issued before an applicant's scheduled date of entry into Hong Kong. She also asked whether there was any international practice in this respect.

50. S for S responded that the applicant's scheduled date of entry into Hong Kong was one of the factors considered by ImmD in the processing of applications. ImmD

Action

would try to process the application before the applicant's scheduled visit date. There was not any international practice in this respect.

51. Mr Albert HO said that it could be noted that the speeches given by senior Mainland officials before and after reunification had been complied in full by the Administration and even prevailed over BL. He expressed concern that the Administration might have refused Mr MA's application without examining Mr MA's purpose of visit. He considered that this was inconsistent with Hong Kong's role as a bridge between the Mainland and Taiwan. He added that since reunification, many ministerial level Taiwan officials had visited Macau but none had visited Hong Kong.

52. SCA responded that matters concerning relations between the Mainland and Taiwan were central government-led. Since the resumption of sovereignty, there had been increased exchanges between Hong Kong and Taiwan, particularly in trade and tourism. Taiwan journalists, representatives from the business and professional sectors had visited departments of the HKSAR Government. Taiwanese holding official positions also visited Hong Kong, such as Mr MA and the Deputy Mayor of Taipei.

Admin

53. S for S added that ministerial level Taiwan officials had visited Hong Kong after the resumption of sovereignty. The Chairman requested the Administration to provide statistics relating to the visits of such Taiwan officials. S for S agreed to examine whether such statistics were maintained by the Administration.

54. Dr Philip WONG said that Mr MA, who was fully aware of the international practice of not commenting on individual immigration applications, would not have wished Members to discuss his case at such a meeting. He considered that the discussions held so far by the Panel would not be beneficial to the promotion of unification of the nation.

55. Ms Emily LAU disagreed with the view of Dr Philip WONG. She said that many people wished to know why Mr MA could not come to Hong Kong. She considered that the Panel should request Mr MA to provide more information about his application. Ms LAU and Mr LEUNG Kwok-hung asked whether the Administration had sent persons to Taiwan to persuade Mr MA to withdraw his entry permit application.

56. S for S responded that it was the Administration's established policy not to comment on individual cases. The Chairman asked whether this had happened in the past. S for S said that he had not heard of any person being sent to persuade someone to withdraw his entry permit application.

57. Mr Howard YOUNG recalled that before reunification, many Taiwan residents were worried that all types of exchanges between Hong Kong and Taiwan would cease after reunification. Qian's Seven Principles, which reflected the policy of the country, were announced at that time to address such concerns and facilitate continued

Action

exchanges between Hong Kong and Taiwan. He asked whether ImmD staff deployed for handling entry permit applications from Taiwan residents had a thorough understanding of Qian's Seven Principles. He considered that besides Taiwan officials, Qian's Seven Principles should also apply to retired senior Taiwan officials.

58. S for S said that ImmD staff responsible for handling entry permit applications from Taiwan residents had sufficient experience in processing such applications. He stressed that each application for entry into Hong Kong was determined on individual merits. SCA added that Qian's Seven Principles had facilitated the continued trade and economic exchanges between Hong Kong and Taiwan after reunification.

59. Dr LUI Ming-wah asked whether the views expressed outside Hong Kong by an applicant was one of the matters considered by D of Imm in the determination of whether to approve an application for entry into Hong Kong.

60. S for S responded that he was not in a position to comment on a hypothetical situation. It would be necessary to examine the contents of the speeches and whether they were relevant to the application.

61. Mr CHIM Pui-chung said that the rejection of visit visa applications was not unusual in many countries. He recalled that his previous applications for visit visas to enter Taiwan and US had been rejected. His recent application for entry into US was still not yet approved. He pointed out that it was the international practice for an immigration authority to refuse an application for entry without explaining its reasons for the refusal.

62. S for S said that D of Imm was empowered to approve or reject applications for entry into Hong Kong in accordance with the law and the established policy.

63. Miss Margaret NG said that she was concerned whether the Administration had acted in accordance with the law and BL. She questioned whether policy considerations regarding the official capacity of Mr MA could prevail over the individual rights of Mr MA. She also questioned whether Qian's Seven Principles could prevail over the provisions in BL154. She asked whether entry permit applications from ordinary Taiwan residents were handled in accordance with BL154, but applications from Taiwan officials were handled in accordance with Qian's Seven Principles.

64. S for S disagreed with the view that the Administration's policy considerations had prevailed over the provisions in BL154. He reiterated that D of Imm had always acted in accordance with the established policy in handling entry permit applications and the law, including BL. Where an application was related to matters concerning contacts with Taiwan, Qian's Seven Principles would apply.

65. Mr LEUNG Kwok-hung considered that Qian's Seven Principles had provided a means for law enforcement agencies to abuse their powers. He asked whether the

Action

Administration was aware of Mr MA's official capacity when considering his application. S for S reiterated that it was the Administration's established policy not to comment on individual cases. D of Imm had always acted in accordance with the law and the established policy. Where necessary, the advice of other departments would be sought.

66. The Chairman asked whether an applicant was required to state in his application whether he was a Taiwan official. S for S responded that an applicant was required to indicate his occupation in the application.

67. Mr Ronny TONG said that he was concerned whether the Administration had acted in accordance with the law. He asked about the criteria adopted by ImmD in vetting entry permit applications.

68. S for S responded that D of Imm had always acted in accordance with the law and the established policy. In addition to the criteria set out in the Administration's paper, Qian's Seven Principles would apply if a case involved contacts with Taiwan officials.

69. Mr Ronny TONG asked whether it was the Administration's policy not to approve or reject visit visa/entry permit applications even after the applicant's scheduled date of entry into Hong Kong.

70. S for S responded that it was not the Administration's policy to do so. Where there was a need for clarification in a case, ImmD would seek clarification with the applicant concerned. The applicant's scheduled date of entry into Hong Kong was one of the factors under consideration in the processing of applications.

71. Ms Emily LAU suggested that the Panel should write to Mr MA seeking more information about his application, including his purpose of visit, or obtaining Mr MA's consent for D of Imm to disclose information about his application to the Panel. Mr LEUNG Kwok-hung supported Ms LAU's suggestion.

72. Mr WONG Yung-kan asked whether it was within the Panel's jurisdiction to seek information from Mr MA. The Chairman said that he had sought legal advice on the matter and had been confirmed that it was within the Panel's jurisdiction to do so.

73. Dr Philip WONG considered it unnecessary for the Panel to seek information from Mr MA. Mr WONG Yung-kan said that it was inappropriate for the Panel to seek information from Mr MA. Mr LAU Kong-wah considered it unnecessary and inappropriate for the Panel to seek information from Mr MA. He said that a precedent should not be created on the disclosure of information about individual immigration cases. He also expressed doubt whether the Panel could seek information from Mr MA. He added that as matters relating to relations with Taiwan were very sensitive, it was inappropriate for the Panel to seek information from Mr MA. Dr LUI Ming-wah, Miss CHOY So-yuk and Mr CHIM Pui-chung considered

Action

that the Panel should focus its work on policy matters rather than individual cases. The Chairman said that there had been cases where the Panel wrote to the Administration seeking information about individual cases.

74. Mr LEUNG Kwok-hung moved the motion that the Panel should write to Mr MA seeking more information about his application, including the details of his application and his purpose of visit, or obtaining his consent for D of Imm to release such information to the Panel. As there were divided views among members, a vote was taken on the motion. The Chairman pointed out that non-Panel Members were not entitled to vote. Miss Margaret NG suggested that the names of members who voted be recorded.

75. The following three members voted in favour of the motion -

Miss Margaret NG, Mr CHEUNG Man-kwong and Mr LEUNG Kwok-hung.

76. The following eight members voted against the motion -

Mr Daniel LAM, Dr LUI Ming-wah, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Kong-wah, Miss CHOY So-yuk and Mr CHIM Pui-chung.

IV. Biometric Hong Kong Special Administrative Region Passport
(LegCo Brief Ref : SBCR 3/2091/95)

77. Members noted a presentation by Assistant Director of Immigration (Information Systems) (AD of Imm (IS)) on the biometric HKSAR passport (the biometric passport). AD of Imm (IS) informed Members that the cost of the existing HKSAR passport was \$451, whereas the estimated cost of the biometric passport was about \$464. The Administration intended to introduce the biometric passport in the first quarter of 2007.

78. Mr Howard YOUNG expressed support for the introduction of biometric passport. As it was a general requirement in many countries that the validity period of a visitor's passport should not be less than six months, he asked whether the timing for the introduction of the biometric passport could be advanced to the last quarter of 2006 to meet the needs of HKSAR residents who would travel outside Hong Kong during the Christmas and New Year holidays. Mr WONG Yung-kan shared the view that the timing for the introduction of the biometric passport should be advanced.

79. AD of Imm(IS) responded that the biometric passport would incorporate a chip and the security requirements were high. Eight months would be needed for the tendering exercise and award of contract. Another 12 months would be needed for system design and development and user acceptance testing. The timetable had already been compressed where possible. Nevertheless, the Administration would try

Action

its best to advance the introduction of the biometric passport.

80. Dr Philip WONG supported the view that the timing for introduction of biometric passports should be advanced. He asked whether tenders could be invited at an earlier date with the condition that funding for the project would be subject to approval by the Finance Committee (FC).

81. AD of Imm(IS) responded that funding approval by FC would be required before tenders were invited. Nevertheless, the Administration could consider drafting the tender documents at an earlier stage.

82. Mr Howard YOUNG asked why the biodata page of the biometric passport would be placed at the penultimate page instead of the back cover of the passport. He asked whether such a design was in line with international practice.

83. AD of Imm (IS) responded that although the biodata page was commonly placed at the back cover of a passport in the past, such a design was more vulnerable to forgery. Placing the biodata page at the penultimate page of the biometric passport was in line with the recommendations of Interpol. Such a design was also specified in the tender issued by US in late 2004 for the biometric passport to be introduced shortly.

84. Ms Emily LAU asked why the existing computer system for issuing HKSAR passports had a life span of 10 years only.

85. AD of Imm (IS) responded that the existing computer system, which operated on Windows 3.1, was designed in 1995 and installed in 1996. Frequent breakdowns were found with the passport personalisation printers and some of the replacement parts required were no longer available. The life span of 10 years was already longer than those of many other computer systems.

86. Referring to paragraph 11 of the Administration's paper, Ms Emily LAU asked why the introduction of biometric passports did not entail any change to principal legislation.

87. Deputy Secretary for Security (DS for S) responded that according to legal advice, the introduction of biometric passports with a chip containing the facial image and personal information of the holder as appeared on the biodata page did not entail any change to the principal legislation.

88. Ms Emily LAU asked whether the Administration had any plans to introduce legislative amendments to provide for the incorporation of information about fingerprint or iris pattern of a passport holder in the chip.

89. DS for S responded that the Administration at the moment had no plan to incorporate any template relating to the holder's fingerprint or iris into the chip.

Action

Should it be decided later that these biometric identifiers be incorporated into the chip, corresponding amendments to the principal legislation would be made.

90. Referring to the Annex to the Administration's paper, Ms Emily LAU asked how the capital cost and operating cost for the project were computed.

91. AD of Imm(IS) responded that the capital cost of \$211 million comprised a non-recurrent cost of \$153 for procuring the system and consumables and a non-recurrent cost of \$58 million for a two-year time-limited project team. The recurrent cost for the system were as follows –

	<u>2007-08</u>	<u>2008-09 onwards</u>
Cost for blank passports	\$42 million	\$34 million
Cost for the chip and polycarbonate for the biodata page	\$58 million	\$49 million
Repair and maintenance cost	\$38 million	\$38 million
	—————	—————
Total recurrent cost	\$138 million	\$121 million

92. DS for S said that the fee of \$320 for the existing HKSAR passport only met about 71% of the full cost of the passport. The projected fee for the biometric passport, which would be set at a full-cost recovery basis, was estimated to be about \$464. Such a fee compared favourably with the fees for passports issued by many other countries, the details of which were as follows –

<u>Country</u>	<u>Approximate Fee for a passport</u>
United Kingdom	HK\$880
US	HK\$663
Australia	HK\$900
Canada	HK\$557
Japan	HK\$975

93. Ms Emily LAU suggested that the Administration should provide detailed breakdown on the computation of costs incurred with the introduction of biometric passport in the paper for FC. She requested the Administration to provide Members with printed copies of the presentation materials.

Action

(Post-meeting note : The presentation materials provided by the Administration was circulated to members vide LC Paper No. CB(2)820/04-05 on 4 February 2005.)

94. The Chairman concluded that members generally supported the financial proposal and agreed that the proposal could be submitted to FC for consideration.
95. There being no further business, the meeting ended at 5:35 pm.

Council Business Division 2
Legislative Council Secretariat
13 April 2005