

**Extract from the minutes of the
meeting of the Panel on Security on 27 May 2013**

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IV. Mechanism of Independent Commission Against Corruption for approval of duty visits outside Hong Kong and reimbursement of expenditure on official entertainment and souvenirs

(LC Paper Nos. CB(2)1032/12-13(01), CB(2)1049/12-13(01) to (03), CB(2)1148/12-13(01) and FS26/12-13)

5. Commissioner, Independent Commission Against Corruption ("C/ICAC") briefed Members on ICAC's mechanism for approval of duty visits outside Hong Kong and reimbursement of expenditure on official entertainment and souvenirs.

6. Referring to recent media reports on the amount spent by Mr Timothy TONG, former C/ICAC, on gifts and souvenirs during his five-year tenure, C/ICAC clarified that the total amount spent on gifts and souvenirs during Mr TONG's five year tenure should be \$724,000, comprising \$282,873 on gifts for officials from different places, some \$7,500 on souvenirs for academics, representatives from public bodies and non-governmental organizations, about \$201,500 on souvenirs for participants of seminars and talks organized by ICAC, about \$207,000 on souvenirs for visitors and participants of the ICAC Open Day and annual opinion survey of ICAC, as well as about \$25,000 on small disbursements for items such as copper plate with the guest's name.

7. Members noted a fact sheet entitled "Mechanism for approval of duty visits outside Hong Kong and reimbursement of expenditure on official entertainment and souvenirs in the Civil Service" prepared by the Legislative Council ("LegCo") Secretariat.

Further guidelines issued by the Independent Commission Against Corruption on visits outside Hong Kong, official entertainments and presentation of souvenirs

8. Mr WONG Yuk-man expressed concern that although ICAC's Commission Standing Orders ("CSO") on duty visits outside Hong Kong, official entertainments and presentation of souvenirs were based on the relevant provisions in the Civil Service Regulations ("CSR"), the

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requirements in CSR were relatively loose and ICAC should issue more stringent guidelines on such matters. Although ICAC had issued further guidelines on such matters, he considered that there was still room for improvement. Referring to paragraphs 4 and 6 of ICAC's paper, he said that the meanings of "prominently conducive to the missions and/or functions of the Commission" and "directly related to the context of the official business" were vague.

9. Mr CHAN Kam-lam said that ICAC should seek to clarify as soon as possible any inaccuracies in media reports relating to ICAC. He considered it necessary for ICAC to maintain exchanges with relevant agencies of other places to prevent corruption involving persons in Hong Kong and other places. He asked whether there had been any changes in expenses of ICAC on duty visits outside Hong Kong, official entertainment and souvenirs since the implementation of the further guidelines from 6 May 2013 onwards.

10. C/ICAC responded that ICAC was aware of the importance of early clarification of matters inaccurately reported by the media. However, time was needed for retrieval of all relevant vouchers and receipts before the total expenses could be verified and the facts clarified. He said that after he had assumed his current post, there had been a substantial drop in ICAC's expenses on duty visits outside Hong Kong, official entertainment and souvenirs.

11. Mr Christopher CHEUNG expressed support for the promulgation of the further guidelines by ICAC on 6 May 2013 to regulate expenditure on duty visits outside Hong Kong, public entertainment and souvenirs. He considered that ICAC should provide its further guidelines to the Civil Service Bureau for reference.

Endorsement of the official entertainment of the Commissioner of Independent Commission Against Corruption under the further guidelines

12. Referring to paragraph 6 of ICAC's paper, Mr WONG Yuk-man said that it was inappropriate for the official entertainment expenses of C/ICAC to be endorsed by the Head of Operations ("H/Ops") and the compliance of official entertainment attended by both C/ICAC and H/Ops to be checked by Assistant Director/Administration.

13. Mr Michael TIEN and Mr CHAN Hak-kan considered that it was inappropriate for the compliance of official entertainment expenses of C/ICAC to be checked by a subordinate. Mr TIEN considered that

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instead of such an arrangement, C/ICAC should disclose his respective justifications for official entertainment to the public. Mr CHAN Kam-lam considered that the requirement for official entertainment hosted by C/ICAC to be endorsed by H/Ops was at least better than the absence of any monitoring mechanism.

14. The Chairman considered that it was more appropriate for information on expenses for official entertainment hosted by C/ICAC to be submitted to a committee or subcommittee of ICAC for record and monitoring. The Deputy Chairman said that such information could be submitted to the Advisory Committee on Corruption of ICAC on a regular basis for record and monitoring.

15. C/ICAC responded that the further guidelines on official entertainment were consistent with that under CSR for civil servants and had been found effective. He welcomed the views of his subordinates on his compliance with the guidelines. He said that ICAC would consider the views of Members on the arrangement. He added that the issue would probably also be examined by the Independent Review Committee on ICAC's Regulatory Systems and Procedures for Handling Official Entertainment, Gifts and Duty Visits.

Mechanism for staff of the Independent Commission Against Corruption to report violations of Commission Standing Orders or internal guidelines

16. Ms Cyd HO said that if there had been rules in place in ICAC before 6 May 2013 on expenses for duty visits outside Hong Kong and official entertainment, the staff of ICAC should be familiar with the rules and some staff in ICAC should draw the attention of the former C/ICAC to the requirements. She considered that a mechanism should be established in ICAC for the protection of staff members who reported any violation of CSO or internal guidelines.

17. C/ICAC responded that ICAC was aware of the importance of clear guidelines on such expenses and had thus adopted further guidelines since 6 May 2013 to set out the requirements clearly. He pointed out that adequate training was provided by ICAC to new staff to facilitate their understanding of the relevant requirements and maintain a culture of high integrity among ICAC officers. He said that he had been encouraging his subordinates to remind him of any possible breach of CSO or internal guidelines.

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Taking of strong spirits at official entertainments

18. The Deputy Chairman and Mr LEUNG Kwok-hung considered that ICAC officers should not be allowed to take strong spirits during official entertainments, as an officer might incidentally disclose confidential information when not in a totally conscious state after taking strong spirits. C/ICAC responded that since assuming the current post, he had not used any strong spirits in official entertainments.

Expenditure chargeable to the entertainment vote

19. Referring to paragraph 5 of Annex C to ICAC's paper, the Deputy Chairman asked whether there had been any combination of official entertainment with private entertainment. He also asked about the interpretation of "in the public interest" in paragraph 2(b) of the same annex. C/ICAC responded that he had no knowledge or experience on how to hold such a combined entertainment. Therefore, he was not able to answer the questions.

Tours arranged by the receiving party during official visits outside Hong Kong

20. Mr Alan LEONG said that Mr Timothy TONG had said that it was difficult from a courtesy point of view to decline invitations for sightseeing tours arranged by the receiving party during official visits outside Hong Kong. He asked whether the issue had been dealt with in the further guidelines promulgated by ICAC on 6 May 2013.

21. C/ICAC responded that the further guidelines promulgated on 6 May 2013 required the duration of duty visits outside Hong Kong to be as short as possible covering only the part of the programmes and sessions pertaining to the official purposes of that visit. An officer should not defer his return to Hong Kong for the purpose of joining tours arranged by the receiving party.

Whether there were grey areas in the guidelines regarding the splitting of entertainment bills

22. The Chairman asked whether there were grey areas in the guidelines before 6 May 2013 regarding the splitting of entertainment bills. Mr Alan LEONG asked whether such grey areas had been dealt with in the further guidelines promulgated on 6 May 2013.

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23. C/ICAC responded that the provisions in the guidelines before 6 May 2013 on the subject might not be clear enough. In the Audit Report No. 60, the Director of Audit had pointed out that the charging of different bills to different votes for a meal and dessert taken on one occasion, though in different restaurants, was not in violation of the prevailing guidelines, but it was inconsistent with the spirit of the government requirements. He pointed out that the further guidelines promulgated on 6 May 2013 expressly prohibited that. The further guidelines also spelt out clearly that entertainment expenses were inclusive of any food, beverages, tips and any food or drinks purchased separately for the official entertainment concerned.

Staff turnover and morale in the Independent Commission Against Corruption

24. Mr Michael TIEN asked about the measures adopted by ICAC to address the low morale and high turnover rate of ICAC staff. He also asked about the views of ICAC staff on the further guidelines promulgated on 6 May 2013.

25. C/ICAC responded that the staff turnover rate of ICAC had decreased from a two-digit level in 2007-2008 to the current level of around 5.3% to 5.6%. He was very concerned about staff morale and had recently issued a letter to all ICAC staff encouraging them to continue to maintain a culture of high integrity among ICAC officers. He informed Members that all heads of departments of ICAC were supportive of the further guidelines promulgated on 6 May 2013.

Scope of guests directly related to the context of official business

26. Mr CHAN Hak-kan asked whether the further guidelines adopted on 6 May 2013 had dealt with the issue of attendance of guests unrelated to the context of the official business at official entertainments.

27. C/ICAC responded that the further guidelines required that only guests who were directly related to the context of the official business were invited. Thus, there was a need to justify that all the guests were directly related to the context of the official business. He pointed out that this requirement was in line with that under CSR.

28. Referring to paragraph 6 of ICAC's paper, Mr Albert HO sought information on the categories of guests regarded as directly related to the context of the official business. He asked whether such guests included

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Legislative Council Members, members of political parties, members of the media and other organizations. C/ICAC replied in the affirmative.

29. Mr Albert HO asked whether guests who were directly related to the context of the official business included heads of government departments of other places who visited ICAC.

30. C/ICAC responded that requests for visiting ICAC were frequently received from officials from different countries and places. If the request was related to the work of ICAC, it was the usual practice to receive the guest. However, it only involved guided tour of the exhibition facilities by ICAC staff. No official entertainment was involved.

31. Mr Albert HO asked whether liaison between C/ICAC and the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("the Liaison Office") was fallen within the official business of ICAC. C/ICAC responded that in the Liaison Office, there was a Supervision Department which undertook the local liaison work of the Ministry of Supervision and the Supreme People's Procuratorate. Since 1988, ICAC had maintained liaison with the Supreme People's Procuratorate on mutual assistance in the investigation of cross-boundary corruption cases and corruption cases in which the suspects or witnesses were in the Mainland. C/ICAC said that after he had assumed the current post, he had attended a dinner hosted by the Liaison Office and invited the head of the Supervision Department to attend as guest to a seminar organized by ICAC.

Provision of further guidelines to the Panel

32. The Deputy Chairman, Mr LEUNG Kwok-hung and Mr Alan LEONG considered that ICAC should provide members with its further internal guidelines, which were adopted since 6 May 2013, on duty visits outside Hong Kong, official entertainment expenses and presentation of souvenirs. C/ICAC responded that as the guidelines were intended for internal reference only, he would consider whether the gist of the internal guidelines could be provided to members. The Chairman said that ICAC could consider depositing a copy of its internal guidelines with the LegCo Secretariat for perusal by interested members at a designated location within the LegCo Complex. C/ICAC agreed to consider members' request.

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