

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 1789/00-01

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 31<sup>st</sup> meeting  
held in the Legislative Council Chamber  
at 3:40 pm on Friday, 8 June 2001**

**Members present :**

Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)  
Hon Fred LI Wah-ming, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon James TIEN Pei-chun, JP  
Hon David CHU Yu-lin  
Hon Cyd HO Sau-lan  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Hon Eric LI Ka-cheung, JP  
Dr Hon LUI Ming-wah, JP  
Hon NG Leung-sing  
Prof Hon NG Ching-fai  
Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching  
Hon CHAN Kwok-keung  
Hon CHAN Yuen-han  
Hon Bernard CHAN  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon LEUNG Yiu-chung  
Hon SIN Chung-kai  
Hon Andrew WONG Wang-fat, JP  
Dr Hon Philip WONG Yu-hong  
Hon WONG Yung-kan  
Hon Jasper TSANG Yok-sing, JP  
Hon Howard YOUNG, JP  
Dr Hon YEUNG Sum



Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Anita HO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Florence LAM	Chief Assistant Secretary (1)4
Miss Salumi CHAN	Chief Assistant Secretary (1)5
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

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**I. Confirmation of the minutes of meetings**

- (a) **Special meeting held on 18 May 2001**  
(LC Paper No. CB(2) 1741/00-01)
- (b) **30th meeting held on 1 June 2001**  
(LC Paper No. CB(2) 1720/00-01)

The two sets of minutes were confirmed.

**II. Matters arising**

**Report by the Deputy Chairman on his meeting with the Chief Secretary for Administration (CS)**

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Report of the Panel on Administration of Justice and Legal Services (AJLS Panel) on the applicability of Ordinances to the offices set up by the Central People's Government (CPG) in the Hong Kong Special Administrative Region (HKSAR)

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2. The Deputy Chairman informed Members that CS had clarified that the CPG had actually agreed in principle to the adaptation proposals regarding the 15 Ordinances concerned, but it was important to get the detailed provisions right. The draft wording of the amendments had been provided to the CPG. The Deputy Chairman further said that CS had conceded that the Administration could have accorded the matter higher priority and dealt with it more expeditiously.

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3. As for the Arbitration Ordinance, the Deputy Chairman informed Members that the Director of Administration (D of Adm) had said that the AJLS Panel did not find the adaptation provisions previously proposed by the Administration satisfactory. The Administration was working out suitable provisions and would provide a further report to the AJLS Panel at its next meeting on 26 June 2001.

4. The Deputy Chairman added that CS was informed that the House Committee would discuss Ms Emily LAU's proposal of holding a motion debate on the matter.

5. Ms Emily LAU said that at the last meeting, she had requested the Deputy Chairman to seek further information from CS as to when the Central Government was consulted on the proposal on how to amend the 15 Ordinances concerned and what the proposal was. Ms LAU queried why it was necessary for the HKSAR Government to consult the Central Government when the Administration had confirmed in 1998 that these 15 Ordinances should, as a matter of policy, apply to the CPG offices in the HKSAR. Ms LAU asked what CS's response was.

6. The Deputy Chairman said that CS had responded that the Administration would give a detailed report to the AJLS Panel at its meeting on 26 June 2001.

7. Miss Margaret NG pointed out that it was the Bills Committee formed to study the Arbitration (Amendment) Bill 1999, and not the AJLS Panel, which had raised objection to the adaptation provisions proposed by the Administration. As the Bills Committee considered that the proposed adaptation provisions could not achieve the intended legal effect, the Administration had undertaken to come up with an appropriate formulation to extend the applicability of the Ordinance to the CPG offices. Miss NG said that the matter had dragged on for more than three years; she could not see any excuse for the Administration to further delay the adaptation work. Miss NG added that the Administration should be requested to provide, at the meeting of the AJLS Panel meeting on 26 June 2001, details of the proposal put forward by the HKSAR Government to the Central Government.

8. Ms Emily LAU said that as the Administration had confirmed in 1998 that the 15 relevant Ordinances should apply to the CPG offices in the HKSAR, it was a very serious matter that the Administration had still not amended the Ordinances. Ms LAU said that she hoped Members would support her proposal of the Chairman of the House Committee moving a motion for debate in Council.

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9. The Chairman said that Ms Emily LAU's proposal of holding a motion debate on the matter would be discussed under item VII below.

**Consultation paper of the Committee on Rules of Procedure on Debate on the Policy Address**

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10. The Deputy Chairman said that CS was briefed on the new arrangements proposed by the Committee on Rules of Procedure (CRoP) on the debate on the Policy Address. CS had cautioned that the presence of a quorum might be a problem in a six-day debate.

11. The Deputy Chairman further said that D of Adm had confirmed that he had received the proposals from the Legislative Council (LegCo) Secretariat and would consult the Bureau Secretaries. However, D of Adm doubted that the Administration could respond before the deadline of 11 June 2001 set by the Secretariat.

12. The Deputy Chairman added that CS had emphasized that the debate on the Policy Address was an important event and any changes to the existing arrangements must be considered very carefully. CS had assured him that the Administration would consider the proposals positively.

13. Miss Margaret NG said that CRoP had given careful consideration to the proposals. It was necessary to seek an early exchange of views with the Administration so that their views could be taken into consideration before the arrangements were finalised.

14. The Chairman said that the proposals of CRoP would be discussed under item VIII below.

**III. Business arising from previous Council meetings**

**(a) Legal Service Division's reports on bills referred to the House Committee in accordance with Rule 54(4)**

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**(i) Companies (Amendment) Bill 2001**  
*(LC Paper No. LS 105/00-01)*

15. Referring to the report, the Legal Adviser explained that the Bill proposed that a listed Hong Kong company might, with the agreement of the person entitled to receive a copy of the relevant financial documents, sent to such person a copy of a summary financial report in place of the full financial documents, for the purpose of the company's annual general meeting.

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16. The Legal Adviser said that the Administration intended to provide by subsidiary legislation that the entitled person should be deemed to have given his agreement for this purpose, unless he had indicated a contrary intention in writing within 30 days, in response to a notice sent by the listed Hong Kong company. The Legal Adviser further said that Members might wish to study this presumption provision in detail when the relevant subsidiary legislation was introduced.

17. The Chairman said that according to the Administration, the Standing Committee on Company Law Reform and the Hong Kong Society of Accountants had endorsed the proposal in principle. She added that the Panel on Financial Affairs also welcomed the proposal when consulted on 7 March 2001.

18. The Legal Adviser pointed out that the provisions in the Bill were technical in nature. The Legal Service Division was seeking clarification from the Administration on a number of drafting points and would provide a further report.

19. The Chairman proposed that a decision on the Bill be deferred, pending a further report from the Legal Service Division. Members agreed.

**(ii) Post Secondary Colleges (Amendment) Bill 2001**  
*(LC Paper No. LS 99/00-01)*

20. Introducing the paper, the Legal Adviser explained that the Bill made a simple amendment to the principal Ordinance to allow registered post secondary colleges, which could now only award diplomas and certificates, to award degrees with the prior approval of the Chief Executive in Council.

21. The Legal Adviser said that the proposed change was essentially a technical amendment to enable the Hong Kong Shue Yan College (HKSYC) to start offering degree programmes in September this year, subject to the validation by the Hong Kong Council of Academic Accreditation (HKCAA) and the fulfilment of conditions and requirements as specified by HKCAA and the enactment of the Bill.

22. The Legal Adviser further said that the Panel on Education expressed support for the Bill when consulted on 21 May 2001. The Panel also recommended that there was no need to set up a Bills Committee to study the Bill.

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23. The Legal Adviser added that the legal and drafting aspects of the Bill were in order. Subject to Members' view, the Bill was ready for resumption of the Second Reading debate.

24. Dr YEUNG Sum said that the Panel on Education had recommended that no Bills Committee was necessary so that the Bill could be enacted in time for HKSYP to offer four degree programmes in September this year.

25. Mr Tommy CHEUNG said that Members belonging to the Liberal Party also agreed that a Bills Committee was not necessary.

26. Miss Margaret NG enquired why the present proposal for HKSYP to offer degree programmes was a "technical" and not a policy matter. She also asked whether HKSYP was ready to offer the degree programmes given the short time available, as the Bill was introduced only in May 2001.

27. Mr Andrew WONG explained that under the current policy, a post-secondary college could offer degree courses subject to the accreditation of HKCAA if it was satisfied, after an academic review, that the programmes concerned met the required standards for awarding degrees.

28. Dr YEUNG Sum added that allowing HKSYP to offer certain degree programmes did not automatically confer university status to HKSYP. He advised that HKCAA had recommended that HKSYP could offer four degree programmes and HKSYP could not enrol students for these four degree programmes until the Bill was enacted.

29. Members raised no objection to the resumption of the Second Reading debate on the Bill.

**(iii) Employment (Amendment) Bill 2001**  
*(LC Paper No. LS 106/00-01)*

30. Presenting the paper, the Legal Adviser said that the Employment Ordinance presently allowed severance payment and long service payment to be reduced by the amount of gratuity or occupational retirement scheme benefits which had already been paid. Since the introduction of the Mandatory Provident Fund (MPF) schemes, the offsetting provisions had been extended to MPF scheme benefits, but only to the amount of the benefits held in a MPF scheme and not to such benefits which had already been paid. Owing to this omission, the offsetting could not be achieved in certain situations.

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31. The Legal Adviser further said that the Bill was to rectify the situation so that the offsetting provisions also covered the case where MPF scheme benefits had been paid. He added that it was also proposed that the amendments should take effect from the date of gazettal of the Bill, i.e. 25 May 2001. This was to safeguard against any possibility of a surge in the number of employees withdrawing MPF scheme benefits and subsequently leaving employment before those amendments were made into law.

32. The Legal Adviser pointed out that according to the LegCo Brief on the Bill, the Labour Advisory Board had raised no objection to the proposed amendments. The Panel on Manpower was also informed of the proposed amendments on 17 May 2001. He added that the legal and drafting aspects of the Bill were in order and that subject to Members' view, the Bill was ready for resumption of the Second Reading debate.

33. Miss CHAN Yuen-han said that although she disagreed with the overall policy of the offsetting arrangements, she did not consider a Bills Committee necessary as the proposed amendments were technical in nature.

34. Members raised no objection to the resumption of the Second Reading debate on the Bill.

**(b) Legal Service Division's report on subsidiary legislation tabled in Council on 6 June 2001 (gazetted on 1 June 2001)**  
*(LC Paper No. LS 111/00-01)*

35. The Legal Adviser said that a total of 27 items of subsidiary legislation were gazetted on 1 June 2001. As some individual items involved complex issues, the Legal Service Division was still scrutinizing the legal and drafting aspects of these items of subsidiary legislation and would make a further report should there be technical difficulties.

36. The Legal Adviser said that three items of subsidiary legislation relating to air pollution control were made under the Air Pollution Ordinance. The Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) Regulation 2001 sought to formalise the existing practice of not importing compression-ignition engine taxis with effect from 1 August 2001, and for liquefied petroleum gas taxis to conform to the proposed emission standards. As regards the Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) (No. 2) Regulation 2001, it aimed to raise the emission standards of certain vehicles having a design weight of more than 3.5 tonnes and first registered on or after 1 October 2001, and those of not more than 3.5



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tonnes and first registered on or after 1 January 2002, to bring them up to Euro III emission standards.

37. Regarding the Air Pollution Control (Dry-Cleaning Machines) (Vapour Recovery) Regulation, the Legal Adviser explained that the Regulation prohibited the sale, lease or use of certain dry-cleaning machines and provided penal provisions for contravention. He added that the coming into effect of the proposed Regulation would have impact on the operation of the industry.

38. Miss Margaret NG asked whether the Panel on Environment Affairs (EA Panel) had been briefed on the Regulation and whether the views of the industry had been sought.

39. The Legal Adviser responded that the Regulation was discussed by the EA Panel at its meeting on 2 January 2001. Ms Cyd HO said that the industry's major concern was the replacement cost of the machines. She pointed out that as the Administration had proposed a grace period of five and seven years for vented and substandard non-vented machines respectively, most existing machines would have served their normal life span at the expiry of the grace periods and would have to be replaced anyway even if the Regulation had not been introduced. Ms HO added that some green groups, however, had asked that the grace periods be shortened so that the environmental protection objective of the Regulation could be achieved sooner.

40. Referring to the Telecommunications (Method for Determining Spectrum Utilization Fees) (Third Generation Mobile Services) Regulation and the Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilization Fee) Order, Mr James TIEN said that as agreed at the House Committee meeting on 4 May 2001, a subcommittee had been set up to discuss the draft Regulation and the draft Order as well as to meet representatives of the industry. Mr TIEN further said that the subcommittee had already held four meetings, and that the subcommittee would continue to scrutinise these two items of subsidiary legislation, subject to Members' agreement. Members agreed.

41. With regard to the Prevention of Copyright Piracy Ordinance (Amendment of Schedule 2) Order 2001, Mr SIN Chung-kai said that he had no objection to the proposed reduction in the fee payable for an application for renewal of a licence for manufacturing optical discs from \$5,500 to \$1,270.

42. Mr SIN Chung-kai further said that the Panel on Commerce and Industry had been consulted on the Registration of Copyright Licensing Bodies Regulation and expressed support. He hoped that the

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Administration could expedite action in setting up the relevant licensing bodies.

43. Regarding the Commodities Trading (Trading Limits and Position Limits) (Amendment) (No. 3) Rules 2001 and the Securities (Exchange — Traded Stock Options) (Amendment) Rules 2001, Mr Henry WU said that his initial view was that the two sets of Rules did not have problems. He would further study them and report to the House Committee should problems be identified.

44. As regards the Fire Safety (Commercial Premises) Ordinance (Amendment of Schedule 4) Order 2001, the Legal Adviser explained that the Order sought to extend the fire safety improvement programme to cover commercial buildings, building plans of which were submitted on or before 1 March 1987, or which were constructed on or before that date. The effect was that owners and occupiers of those commercial buildings were required to comply with certain fire safety measures specified in the Ordinance. The Legal Adviser added that the Order would come into operation on 10 October 2001.

45. The Chairman reminded Members that the deadline for amending the 27 items of subsidiary legislation was 4 July 2001, or 11 July 2001 if extended by resolution.

(c) **Legal Service Division's report on Code of Practice on Education under the Disability Discrimination Ordinance (Cap. 487) (G.N.3310) gazetted on 1 June 2001**  
*(LC Paper No. LS 113/00-01)*

46. The Legal Adviser explained that although the Code was not subsidiary legislation, the scrutiny period of and amendment procedure for the Code were the same as those for subsidiary legislation. He added that the Code would come into effect 28 days after it was laid on the table of the Council.

47. Referring to the paper, the Legal Adviser said that the Code of Practice was issued by the Equal Opportunities Commission under the Disability Discrimination Ordinance (DDO) to assist educational establishments in fulfilling the requirements of the Ordinance. The Legal Adviser further said that Code explained the factors that educational establishments should take into account to meet the needs of persons with disabilities in the course of provision of education. It also specified the respective roles and responsibilities of the Government, educational establishments, staff of the educational establishments, students and their parents in promoting equal opportunities in the education process.

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48. The Legal Adviser pointed out that failure on the part of a person to observe the Code would not render him liable in any proceedings. However, in any proceedings under the DDO, relevant provisions of the Code would be admissible in evidence for the determination of any questions arising from the proceedings.

49. The Legal Adviser and Dr YEUNG Sum said that the Code was discussed by the Panel on Education at its meeting on 19 March 2001. Dr YEUNG added that the Panel supported the Code in principle and urged the Administration to provide the necessary resources for schools to implement the Code.

50. Members did not raise any query on the Code.

51. The Chairman reminded Members that the deadline for amending the Code was 4 July 2001, or 11 July 2001 if extended by resolution.

**IV. Further business for the Council meeting on 13 June 2001**

**Members' Bills - First Reading and moving of Second Reading**

**Bank of China (Hong Kong) Limited (Merger) Bill**

**Bank of East Asia, Limited Bill**

52. The Chairman said that the two Bills would be introduced into the Council on 13 June 2001 by Dr David LI Kwok-po and Mr NG Leung-sing respectively, and considered by the House Committee on 15 June 2001.

**V. Business for the Council meeting on 20 June 2001**

**(a) Questions**  
*(LC Paper No. CB(3) 735/00-01)*

53. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 20 June 2001.

**(b) Bills - First Reading and moving of Second Reading**

**(i) Road Traffic Legislation (Amendment) Bill 2001**

**(ii) Landlord and Tenant (Consolidation) (Amendment) Bill 2001**

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**(iii) Supplementary Appropriation (2000-2001) Bill 2001**

**(iv) Human Organ Transplant (Amendment) Bill 2001**

54. The Chairman said that the above four Bills would be introduced into the Council on 20 June 2001 and considered by the House Committee on 22 June 2001.

**(c) Government motion**

**Proposed resolution under section 4(2) of the Dutiable Commodities Ordinance (Cap. 109) - to be moved by the Secretary for the Treasury**

*(LC Paper No. LS 115/00-01)*

55. The Legal Adviser explained that the purpose of the motion was to seek LegCo's approval to extend the existing concessionary duty rate (i.e. \$1.11 per litre) on ultra low sulphur diesel (ULSD), which was due to expire on 30 June 2001, to 31 March 2002. The duty on ULSD would be at \$2.89 per litre from 1 April 2002 onwards. The Legal Adviser said that the legal and drafting aspects of the motion were in order.

56. Mr James TIEN said that the Panel on Economic Services had discussed the proposal and expressed support.

57. Mrs Miriam LAU said that she welcomed the proposal. However, she drew Members' attention to the fact that upon the expiry of the existing concessionary duty rate on 31 March 2002, the duty on ULSD would immediately be reverted to \$2.89 per litre, which was a big difference from the current level of \$1.11 per litre.

**(d) Members' motions**

**(i) Resolution under Article 159 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China - to be moved by Hon LEUNG Yiu-chung**

*(Wording of the motion issued vide LC Paper No. CB(3) 728/00-01 dated 1 June 2001.)*

58. The Chairman said that Mr LEUNG Yiu-chung would move the above motion at the Council meeting on 20 June 2001. She further said that the speaking time limit was not more than 15 minutes for each Member.

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(ii) **Motion on "Preventing and reducing suicides"**

59. The Chairman said that the above motion would be moved by Mr Michael MAK Kwok-fung and the wording had been issued to Members.

(iii) **Motion on "Quality of Dongjiang water"**

60. The Chairman said that the above motion would be moved by Mr Frederick FUNG Kin-kee and the wording had been issued to Members.

61. The Chairman reminded Members that the deadline for giving notice of amendments, if any, was 13 June 2001.

**VI. Bills Committee and subcommittee reports**

(a) **Position report on Bills Committees/subcommittees**

*(LC Paper No. CB(2) 1726/00-01)*

62. The Chairman said that there were 13 Bills Committees and five subcommittees in action as well as six Bills Committees on the waiting list. The Chairman further said that the two vacant slots would be taken up by the Bills Committee on the Revenue (No.3) Bill 2001 and the Bills Committee on the Banking (Amendment) Bill 2001 on the waiting list.

(b) **Report of the Bills Committee on Revenue Bill 2001 and Revenue (No. 2) Bill 2001**

*(LC Paper No. CB(2) 1687/00-01)*

63. Referring to the report of the Bills Committee, Miss Margaret NG, Chairman of the Bills Committee, said that the Revenue Bill 2001 and the Revenue (No. 2) Bill 2001 sought to amend certain ordinances to give effect to a number of revenue proposals in the 2001-02 Budget.

64. Miss Margaret NG explained that the Revenue Bill 2001 covered the proposed increase on tobacco duty, duty on alcoholic liquors and transport-related licence fees. Miss NG informed members that the Hong Kong Beer Industry Coalition and representatives of the catering, karaoke and bar industries had expressed concern that the proposed increase in the duty rate on liquors with an alcoholic content of 30% and below (except wine) would harm their business.

65. Miss Margaret NG further said that the Revenue (No.2) Bill 2001 covered the proposals relating to the maximum amount of self-education expenses deductible for the calculation of salaries tax, the Air Passenger Departure Tax (APDT), and the maximum fees for the use of on-street

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parking spaces. Miss NG informed Members that Helicopter Hong Kong Limited had made a submission to the Bills Committee regarding the Administration's proposal to extend the APDT to cover passengers departing Hong Kong at the Macau Ferry Terminal (MFT) Heliport. Miss NG added that the company had also raised other issues which would be referred to the Panel on Economic Services for consideration.

66. As regards the proposal of increasing the maximum level of on-street parking meter charges, Miss Margaret NG said that Bills Committee members did not have a consensus view.

67. Miss Margaret NG said that the Bills Committee recommended that the Second Reading debate on the two Bills be resumed on 20 June 2001, and that the Administration would move Committee Stage amendments (CSAs) to the Revenue Bill 2001 as set out in Appendix IV of the paper. She added that some members had indicated that they might move CSAs to the two Bills.

68. Mr James TIEN sought clarification as to whether Members needed to move CSAs if they did not support certain items of increase.

69. Miss Margaret NG said that Mr TIEN's concern had been discussed by the Bills Committee. She explained that if a Member sought to reduce the level or rate of increase of a particular proposal, an amendment would have to be moved. However, if a member objected to a certain revenue proposal in the Bill, it would not be necessary to move an amendment. The Member could simply vote against the relevant clause at the Committee Stage. Miss NG said that individual Members should seek the advice of the Legal Service Division if they had doubts.

70. Mr SIN Chung-kai said that Members belonging to the Democratic Party would vote against certain items of increase.

71. Mrs Miriam LAU said that she would vote against the proposal of imposing APDT on helicopter passengers departing Hong Kong at the MFT Heliport.

72. Mr Tommy CHEUNG said that he would vote against the proposed increase in the duty rate for liquors with an alcoholic content of 30% or below (except wine).

73. Members did not raise objection to the resumption of the Second Reading debate on the Bill on 20 June 2001. The Chairman reminded Members that the deadline for giving notice of CSAs was 11 June 2001.

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(c) **Report of the Bills Committee on Copyright (Suspension of Amendments) Bill 2001**

74. Mr SIN Chung-kai, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Bill. The Bills Committee had held five meetings, met 21 deputations and received a total of 54 submissions on the Bill. Mr SIN explained that the Copyright (Suspension of Amendments) Bill 2001 (the Bill) sought to suspend the implementation of the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (the amending Ordinance) insofar as it applied to certain criminal provisions in the Copyright Ordinance, subject to certain exceptions. The Bill did not apply in relation to an infringing copy of a movie, television drama or film, musical work and computer program. The Bill also proposed that the suspension should end on 31 July 2002, but it might be changed by the Secretary for Commerce and Industry by a notice published in the Gazette and with the approval of LegCo.

75. Mr SIN Chung-kai said that some members of the Bills Committee considered that the meaning of certain expressions such as "movie", "television drama" and "intended to be published in Hong Kong elsewhere" in the Bill was not clear enough. Some members also considered that all television programmes should be excluded from the suspension.

76. Mr SIN further said that given that the supply of computer software could not meet the local demand, some members suggested that enterprises which used parallel-imported computer software should also be exempted from criminal liabilities. Some members further suggested that the criminal and civil requirements in respect of parallel-imported computer software should be relaxed.

77. Mr SIN added that the Bills Committee was of the view that the expression "in connection with any trade or business" would easily lead to confusion as to when such cases would incur criminal liabilities.

78. Mr SIN informed Members that other related issues and concerns discussed by the Bills Committee included whether a transitional provision should be added to the Bill, whether the criminal provisions in the Copyright Ordinance had imposed a more stringent standard than that required under the Agreement on Trade-Related Aspects of Intellectual Property Rights, and how the criminal provisions of Hong Kong on copyright protection for computer programs compared with those of other jurisdictions.

79. Mr SIN Chung-kai further informed Members that the Administration had, having regard to the Bills Committee's concerns,

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agreed to move CSAs to the Bill. The major amendments were to add a new provision to the Bill to exempt enterprises using parallel-imported computer software from criminal liabilities, to delete the expression "in connection with any trade or business" in the amended Copyright Ordinance, and to specify that the Bill would take effect from 1 April 2001, so that the Bill, if enacted, would continue to apply to those cases currently under investigation.

80. Mr SIN Chung-kai said that the Administration had undertaken to conduct extensive consultation upon the enactment of the Bill, with a view to working out a widely acceptable solution. As for the relaxation of criminal and civil requirements in respect of parallel-imported computer software, Mr SIN advised that the Administration agreed with the proposal in principle and was consulting the affected parties.

81. Mr SIN said that while the Bills Committee generally supported the Administration's proposed CSAs, some members of the Bills Committee had indicated that they might also move CSAs to the Bill.

82. Miss Margaret NG said that she had given notice to move an amendment to suspend the operation of the key criminal provisions in the Copyright Ordinance effected by the amending Ordinance on all copyright works with retrospective effect from 1 April 2001. She considered that the exemption provisions in the Bill would cause confusion as the public might have difficulty in understanding the circumstances under which an offence would be committed.

83. Mr Kenneth TING said that the Administration would consider introducing another bill to relax the control of parallel-imported computer software. He considered the work progress too slow and would move CSAs to allow parallel importation of computer software.

84. Mr Timothy FOK said that the television and film industry considered that the Bill should provide exemption for all television programmes, including drama and non-drama television programmes. He would move CSAs to this effect.

85. Mr SIN Chung-kai said that the Bills Committee supported the resumption of Second Reading debate on the Bill on 20 June 2001. A written report would be provided to the House Committee at the next meeting.

86. Ms Audrey EU, Mr James TO and Dr YEUNG Sum enquired about the order of voting on individual amendments proposed by Members during Committee Stage, as this might affect how Members would vote on



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the amendments. Mr TO added that the amendments to be voted on should be arranged in a logical sequence.

87. Assistant Secretary General 3 (ASG3) said that the order of moving CSAs to a bill would normally be based on the sequence of the clauses in the Bill to be amended. However, in order to save time and avoid repetition of arguments, the Chairman in a committee of the whole Council might allow a single discussion to cover a series of interdependent amendments. ASG3 advised that subject to the President's approval of the proposed CSAs, Members would be informed by the end of the following week the order of voting on the CSAs to the Bill.

88. Members did not raise objection to the resumption of the Second Reading debate on the Bill. The Chairman reminded Members that the deadline for notice of CSAs was 11 June 2001.

**(d) Report of the Subcommittee on Dangerous Drugs, Independent Commission Against Corruption and Police Force (Amendment) Ordinance 2000 (68 of 2000) (Commencement) Notice 2001**

89. Mr James TO, Chairman of the Subcommittee, said that the Subcommittee had completed scrutiny of the "Internal Guidelines on Sample Taking for DNA Comparison" of the Police Force. Mr TO further said that he would move a motion at the Council on 13 June 2001 to extend the scrutiny period to 27 June 2001 so as to allow time for the Subcommittee to study similar guidelines of the Independent Commission Against Corruption.

**VII. Proposed motion debate on the amendment of the Laws of Hong Kong to make them apply to the offices of the Central People's Government (CPG) in the Hong Kong Special Administrative Region (HKSAR)**

*(LC Paper No. CB(2) 1744/00-01)*

90. The Chairman said that as agreed at the last House Committee meeting, Members would consider at this meeting Ms Emily LAU's proposal of the Chairman of the House Committee moving a motion on the matter for debate in Council. She added that the Secretariat had provided a paper detailing the relevant deliberations of the AJLS Panel and Ms Emily LAU had also provided the draft wording of the proposed motion.

91. Ms Emily LAU said that the objective of her proposal was very clear, i.e. the offices set up by the CPG in the HKSAR and their personnel

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should be bound by the laws of HKSAR, in accordance with Article 22 of the Basic Law.

92. Ms Emily LAU pointed out that the AJLS Panel had held a number of meetings since the first LegCo term to discuss the applicability of the Laws of Hong Kong to the CPG offices in HKSAR. In 1998, the Administration had informed the Panel that it had reviewed 17 Ordinances which expressly bound the Government, but which were silent on their applicability to the CPG offices. The Administration had agreed that, as a matter of policy, 15 of these 17 Ordinances should apply to the CPG offices, and it would work out the necessary legislative amendments. Ms LAU informed Members that the other two Ordinances not included for amendment were the Social Workers Registration Ordinance and the Personal Data (Privacy) Ordinance. While the former was found to have no relevance to the CPG offices, the Administration had advised that the Personal Data (Privacy) Ordinance involved complicated issues and needed to be examined carefully.

93. Ms LAU said that the Panel had expressed dissatisfaction with the Administration's protracted "consultation" with the CPG on the applicability of the Personal Data (Privacy) Ordinance to the CPG offices in the HKSAR. Ms LAU added that the Administration had also delayed the adaptation work of 35 other Ordinances that were expressed to bind, or applied to, the "Crown".

94. Ms LAU further said that she was particularly concerned that the HKSAR Government would need to clear the draft wording of the proposed amendments to the 15 relevant Ordinances with the Central Government. She considered that this would seriously undermine the high degree of autonomy of the HKSAR and the legislative power of the Council. She hoped that Members would agree to the Chairman moving the motion for debate in Council so as to send a clear message to the HKSAR Government and CPG that they should expedite action on the matter.

95. Miss Margaret NG said that the motion should be moved by the Chairman on behalf of the House Committee. She added that the draft wording of the motion provided by Ms Emily LAU was appropriate as it was couched in neutral terms, thus enabling Members to express their views freely on the matter during the motion debate.

96. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment of Hong Kong (DAB) had discussed Ms Emily LAU's proposal. While they shared the concern that the matter had dragged on for some time, they did not consider it appropriate for the Chairman of the House Committee to move the motion because Members

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had different views on the matter. Mr IP pointed out that motions moved by the Chairman of the House Committee, such as the "Motion of Thanks", carried special meaning. Mr IP added that as the motion proposed by Ms Emily LAU was for Members to give views on the matter, it could be moved by any Member.

97. Dr YEUNG Sum expressed support for Ms LAU's proposal. He said that HKSAR's high degree of autonomy and legislative power, as provided for in the Basic Law, should be safeguarded. He said that the House Committee should urge the Administration to expedite the amendment of the relevant Ordinances to apply them to the CPG offices in the HKSAR.

98. Ms Audrey EU expressed support for the Chairman of the House Committee moving the motion for debate. She said that the motion was no less important than any other motions moved by the Chairman of the House Committee previously. She said that when she was Chairman of the Hong Kong Bar Association in 1997, she had pointed out to the then Bills Committee on the Adaptation of Laws (Interpretative Provisions) Bill that it was in contravention of Article 22 of the Basic Law if certain Ordinances were binding on the HKSAR Government, but not on the CPG offices in the HKSAR. The Administration had undertaken at that time to review the 17 Ordinances. However, despite the fact that the Administration had completed the review in October 1998 and agreed that 15 of these Ordinances should also bind the CPG offices and amendments would be made accordingly, the Administration was still, up to the present moment, consulting the CPG on the wording of the amendments.

99. Mr TAM Yiu-chung said that as the Deputy Chairman had already conveyed Members' concern to CS, Members should allow time for CS to consider the matter as he had just assumed the post. Mr TAM further said that it was reasonable to consult the Central Government on the draft wording of the proposed amendments as they involved the CPG offices. He pointed out that under Article 17 of the Basic Law, laws enacted by the legislature of the HKSAR had to be reported to the Standing Committee of the National People's Congress for the record. Mr TAM added that the motion proposed by Ms Emily LAU could be moved by any Member if he or she so wished. He had reservations about the Chairman of the House Committee moving the motion for debate.

100. Referring to the draft wording of the motion, Mr James TIEN said that he agreed that the Administration should expedite action to amend the 15 relevant Ordinances to bind the CPG offices as the Administration had undertaken to do so. However, he considered that the Panel should further discuss with the Administration the review of the applicability of the Personal Data (Privacy) Ordinance to the CPG offices and the

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adaptation exercise of the other 35 relevant Ordinances. He added that as other Members had also expressed reservations about the wording of the motion, he considered that it would not be appropriate for the Chairman of the House Committee to move the motion.

101. The Chairman said that some progress had been made on the matter as CS had conceded, at his meeting with the Deputy Chairman, that the matter should have been accorded higher priority and dealt with more expeditiously. Moreover, CS had undertaken that a detailed report would be provided to the AJLS Panel at its meeting on 26 June 2001.

102. Ms Emily LAU said that she did not have high hopes about the Administration's report to the Panel on 26 June 2001. She stressed that the Administration's delay in taking effective action to amend the relevant Ordinances was unacceptable. She said that she was not surprised that some Members would not support the Chairman of the House Committee moving the proposed motion because these Members did not consider it necessary to adapt the Ordinances to apply them to the CPG offices in the HKSAR. She added that these Members would have to answer to the public for not agreeing that the rule of law and the legislative power of the HKSAR should be safeguarded.

103. Miss Margaret NG said that the motion aimed mainly to urge the Administration to expedite action as little progress was made in the past three years. She further pointed out that what CS had said to the Deputy Chairman was nothing new. CS was only repeating what the Administration had told the Panel at previous meetings.

104. Mr TAM Yiu-chung, Mr IP Kwok-him and Mr Eric LI objected to Ms Emily LAU's comment that not agreeing to the Chairman moving the motion meant not agreeing that the rule of law and the legislative power of the HKSAR should be safeguarded. Mr TAM reiterated that consultation with the Central Government on the draft wording of the 15 relevant Ordinances was necessary as the amendments concerned the CPG offices. He reminded Members that under Article 17 of the Basic Law, if the Standing Committee of the National People's Congress, after consulting the Committee for the Basic Law of the HKSAR, considered that any law enacted by the legislature of HKSAR was not in conformity with the provisions of the Basic Law regarding affairs within the responsibility of the Central authorities or regarding the relationship between the Central authorities and the HKSAR, the Standing Committee might return the law in question but would not amend it. However, any law so returned would immediately be invalidated. Mr TAM believed that the purpose of the Administration's consultation with the Central Government was to ensure that the wording of the amendments was consistent with the relevant provisions in the Basic Law.

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105. Mr Eric LI added that whether the work progress of the Administration to amend the relevant Ordinances had been too slow was a matter for individual Members to judge. He further said that if Members could not reach a consensus on the matter, it would not be appropriate for the Chairman to move the motion on behalf of the House Committee. He added that Members should also have regard to the fact that there would be one less debate slot for application, if Members agreed to the Chairman moving the motion for debate at a future Council meeting.

106. Mr Albert HO said that the fundamental issue of Ms Emily LAU's proposal was to safeguard the rule of law. The motion aimed to convey a clear message to the Administration that it should not further delay the amendment of the relevant Ordinances to apply them to the CPG offices. He added that it was the responsibility of the legislature to safeguard the completeness of the legislation of Hong Kong and he did not see any difference in opinion among Members in this regard.

107. Ms Emily LAU said that a motion moved by the Chairman of the House Committee would indicate to the Administration that Members had consensus on the matter. She was disappointed that some Members did not want the Administration to expedite action to amend the relevant Ordinances to apply them to the CPG offices in the HKSAR.

108. The Chairman put Ms Emily LAU's proposal of the Chairman of the House Committee moving the motion for debate in Council to vote. The result was 16 Members voted for the proposal and 26 Members voted against the proposal.

### **VIII. Paper of the Committee on Rules of Procedure**

#### **Consultation paper on Debate on the Policy Address**

*(LC Paper No. CB(1) 1369/00-01 issued vide LC Paper No. CB(2) 1682/00-01 dated 30 May 2001)*

109. The Chairman invited Members' views on CRoP's recommendations as set out in the paper. The Chairman reminded Members that CS had cautioned that the quorum might be a problem in a six-day debate, and that any changes to the existing arrangements had to be considered carefully because the debate on the Policy Address was an important event.

110. Mr TSANG Yok-sing, Chairman of CRoP, said that Members belonging to different political parties and groupings had been consulted on the new mode of debate on the Policy Address before the proposals

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were put forward to the House Committee for consideration. If Members agreed to adopt the new arrangements, he hoped Members would make their best efforts to attend the various sessions of the debate.

111. Miss Margaret NG and Ms Emily LAU said that at the last House Committee meeting, Members had agreed that CRoP should proceed to consult the Administration.

112. Assistant Secretary General 1 said that pursuant to the decision of the last House Committee meeting, the Secretariat had written to the Director of Administration on the proposals and requested a response by 11 June 2001, as CRoP would meet on 12 June 2001.

113. The Deputy Chairman added that at his meeting with CS, D of Adm had advised that he would consult the Bureau Secretaries but doubted whether he could respond by the deadline set by the Secretariat.

114. To facilitate CRoP's discussion with the Administration, the Chairman said that Members should give a clear indication at this meeting as to whether they agreed to the new mode of debating the Policy Address as proposed by CRoP.

115. Mr IP Kwok-him said that at the last meeting, most Members were inclined to support the new mode of debating the Policy Address, but they wished to more carefully consider the detailed proposals, such as the number of days required for the debate.

116. Dr YEUNG Sum agreed that the mood of the last meeting was generally supportive of the new mode of debate, although the detailed proposals would need further deliberation. Ms Emily LAU concurred with Dr YEUNG.

117. Mr TSANG Yok-sing said that at the last meeting, Members generally expressed agreement that the debate on the Policy Address should be structured by policy areas, but some Members had raised concern about the question of quorum if the debate was to spread over six days. Mr TSANG said that a possible option was to have a four-day debate if Members considered a six-day debate too long.

118. Mr James TIEN said that he shared the concern about the question of quorum if the debate was to last six days, since currently the debate on the Policy Address only required three days. He was inclined to support a four-day debate under the new mode of debating the Policy Address.

119. Ms Emily LAU agreed with Mr TIEN that a four-day debate would be more practicable. She suggested that the Administration should be

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invited to attend CRoP's meeting on 12 June 2001. Miss Margaret NG expressed agreement.

120. Mr TSANG Yok-sing proposed that given Members' views expressed at this and the last meeting, both the six-day and four-day options would be put forward for discussion with the Administration. Dr YEUNG concurred with Mr TSANG.

121. The Chairman concluded that Members generally agreed to structure the debate on the Policy Address by policy areas. As regards the detailed proposals, such as the number of days or sessions required for the debate, Members should forward their views to CRoP before its meeting on 12 June 2001. The Chairman added that D of Adm should be invited to CRoP's next meeting.

122. Mr TSANG Yok-sing said that a report on the outcome of CRoP's discussion would be made to the House Committee at the next meeting.

**IX. Any other business**

Arrangements for the last four Council meetings in the 2000-2001 session

123. The Chairman informed Members that as the Agenda for the Council meeting on 20 June 2001 would be long, the President had decided that if in her opinion it was unlikely that the business on the Agenda could be finished by about midnight on 20 June 2001, she would suspend the meeting at about 10:00 pm and order that the meeting resume at 2:30 pm on 21 June 2001.

124. Assistant Secretary General 3 added that he had just issued a circular on the arrangements for the last four meetings in the 2000-2001 session. In respect of the meetings of 20 June, 27 June and 4 July 2001, if the President decided that the business on the Agenda could not be finished before midnight on the day of the meeting, she would suspend the meeting at about 10:00 pm and order that the meeting resume the following day at 2:30 pm. In respect of the last meeting of 11 July 2001, the meeting would also be suspended at 10:00 pm on the day and resume at 9:00 am the following day, and the arrangement would repeat on the day(s) following until the Council finished all the business on the Agenda.

125. There being no further business, the meeting ended at 5:50 pm.

Legislative Council Secretariat

14 June 2001