

立法會
Legislative Council

LC Paper No. CB(2) 2006/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 34th meeting
held in the Legislative Council Chamber
at 3:10 pm on Friday, 29 June 2001**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-yee, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon David CHU Yu-lin, JP
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, JP
Prof Hon NG Ching-fai
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han, JP
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Chin-shek, JP
Hon LAU Kong-wah

Hon Mrs Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Hon James TIEN Pei-chun, GBS, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Hon LAU Wong-fat, GBS, JP
Hon Andrew CHENG Kar-foo
Dr Hon LO Wing-lok

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mr LAW Kam-sang, JP	Deputy Secretary General
Mr LEE Yu-sung	Senior Assistant Legal Adviser

Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Mrs Anna LO	Principal Assistant Secretary (Administration)
Ms Bernice WONG	Assistant Legal Adviser 1
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Assistant Secretary (1)2
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 the 33rd meeting held on 22 June 2001
(LC Paper No. CB(2) 1941/00-01)**

The minutes were confirmed.

II. Matters arising

(a) Report by the Chairman on her meeting with the Chief Secretary for Administration (CS)

Debate on the Policy Address

2. The Chairman informed Members that Acting (Ag) CS had made the following points concerning the new mode of debating the Policy Address -

- (a) there was no objection in principle to the proposed new debate format, i.e. a three-day debate on specific policy areas and a one-day general debate on overall policies;
- (b) there was no objection in principle to having six sessions for the three-day debate on specific policy areas;
- (c) there was no objection in principle to the proposed broad grouping of policy areas, but the Administration would like to suggest that it should have the opportunity to refine the grouping in the light of the emphasis of each Policy Address, and to determine in consultation with the Legislative Council (LegCo) the order of the six sessions;

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- (d) there was no objection to the proposed arrangement for the general debate on the fourth day;
- (e) the Administration would decide on official attendance after the delivery of the Policy Address;
- (f) the Administration noted that policy briefings for Panels would no longer be necessary, but Members still wished to have the policy booklets; and
- (g) there was no objection to adopting the revised format on a trial basis for the 2001 Policy Address.

Committee on Rules of Procedure's report on the progress of the implementation of measures to improve the working mechanism of Panels and Bills Committees for the scrutiny of legislative and financial proposals

3. Regarding the provision of discussion papers for committee meetings, the Chairman said that Ag CS had responded that the Administration needed more time to consult Policy Bureaux on the deadline for discussion papers. She further said that the Administration had been provided with the statistics compiled by the LegCo Secretariat on the timing of submission of discussion papers by Policy Bureaux.

Report of the Panel on Constitutional Affairs on the application of certain provisions of the Prevention of Bribery Ordinance (POBO) to the Chief Executive (CE)

4. The Chairman said that Ag CS had undertaken to provide a written response to explain why the Administration was taking such a long time to introduce the legislative proposal and what exactly the constitutional issues were involved.

(b) Medical and Health Care (Miscellaneous Amendments) Bill 2001

5. The Chairman referred Members to Dr LO Wing-lok's letter tabled at the meeting. The Chairman said that Dr LO had suggested that a Bills Committee should be formed, in view of the concerns raised by the Hong Kong Dental Association on the Bill. Dr YEUNG Sum expressed support for Dr LO's suggestion.

6. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Ms Cyd HO,

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Mr Eric LI, Mr LAW Chi-kwong, Dr TANG Siu-tong, Mr MAK Kwok-fung and Dr LO Wing-lok (as advised by Mr Eric LI).

7. The Chairman added that the Bills Committee would be placed on the waiting list.

III. Business arising from previous Council meetings

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

Noise Control (Amendment) Bill 2001
(*LC Paper No. LS 133/00-01*)

8. Referring to the paper, the Legal Adviser said that the Bill sought to provide that where an offence under the Noise Control Ordinance had been committed by a body corporate, certain directors and officers of the body corporate would be guilty of the like offence where the body corporate committed a further offence at the same site. The Legal Adviser further said that the Bill also empowered the Noise Control Authority to issue codes of practice to provide industries with practical guidance of good management practice.

9. The Legal Adviser pointed out that a bill of similar content, the Noise Control (Amendment) Bill 2000 (2000 Bill), was introduced in February 2000. A Bills Committee was formed but the Bill was allowed to lapse at the end of the term.

10. The Legal Adviser informed Members that the Hong Kong Construction Association had previously expressed reservations about the 2000 Bill. According to the Administration, it had since held further consultation with the Association. The Bill was now re-introduced with some modifications. The Legal Adviser advised that a new provision had been added to the effect that a written warning would be served on the directors and officers concerned after a body corporate had been prosecuted for an offence under the Ordinance. If the body corporate committed a further offence at the same site after the warning, the directors and officers as specified in the Bill might also be prosecuted for that further offence. The penalty for an offence in respect of noise from construction work was \$100,000 on first conviction, \$200,000 on second or subsequent conviction, and \$20,000 for each day during which the offence continued.

11. The Legal Adviser said that the Panel on Environmental Affairs supported the proposals when consulted on 8 May 2001.

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12. The Legal Adviser further said that the Legal Service Division was seeking clarification on certain technical drafting points with the Administration. Members might wish to consider whether a Bills Committee should be set up to study the Bill in detail.

13. Mr LAW Chi-kwong said that as the Bill sought to make directors and officers who controlled or directed the activities of a body corporate criminally liable for offences committed by the body corporate, he was in favour of setting up a Bills Committee to study the Bill in detail. Ms Emily LAU and Mr IP Kwok-him expressed support for Mr LAW's proposal.

14. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr James TIEN (as advised by Mr Tommy CHEUNG), Ms Emily LAU, Mr LAW Chi-kwong, Mr IP Kwok-him and Mr LAU Ping-cheung.

(b) Legal Service Division's report on subsidiary legislation tabled in Council on 27 June 2001 (gazetted on 22 June 2001)
(LC Paper No. LS 132/00-01)

15. The Legal Adviser said that four items of subsidiary legislation were gazetted on 22 June 2001.

16. The Legal Adviser explained that the Public Health (Animals and Birds) (Chemical Residues) Regulation sought to introduce control on feeding of chemicals to food animals, while the Harmful Substances in Food (Amendment) Regulation 2001 was made to extend the scope of prohibition in respect of the importation and sale of food containing certain chemicals in excessive concentrations, and the sale of food containing certain prohibited substances.

17. The Legal Adviser said that according to the Administration, both Regulations would come into operation in two phases after the expiry of the scrutiny period.

18. The Legal Adviser further said that the Panel on Health Services had discussed the control measures on clenbuterol poisoning and the control on feeding of chemicals to food animals at its meetings on 16 October 2000 and 13 November 2000.

19. The Legal Adviser added that the Legal Service Division was still scrutinising the two Regulations and would make a further report to Members, if necessary.

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20. Ms Cyd HO said that as the Regulations introduced a new regulatory control over the feeding of specified chemicals to animals and birds, and also created new offences and penalties, a subcommittee should be set up to study the two Regulations.

21. Mr WONG Yung-kan expressed support for Ms HO's suggestion. Mr WONG said that although the industry was in support of the proposed control on feeding of chemicals to food animals, they had expressed concern about the proposed regulatory framework.

22. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join : Ms Cyd HO, Mr Fred LI, Mr WONG Yung-kan, Mr TAM Yiu-chung and Mr Tommy CHEUNG.

23. As regards the Estate Agents (Licensing) (Amendment) Regulation 2001, the Legal Adviser said that the Amendment Regulation sought to streamline the procedures for obtaining certain types of licences, reduce licence fees and revise certain prescribed forms.

24. The Legal Adviser further said that the Amendment Regulation would come into operation on 1 January 2002. Senior Assistant Legal Adviser added that as the principal ordinance had come into operation on 1 January 1999, the majority of licences would expire in January each year. The proposed reduction in licence fees with effect from 1 January 2002 would tie in with the annual cycle of renewal of licences.

25. The Legal Adviser added that the deadline for amending these items of subsidiary legislation was the second Council meeting, or the third Council meeting in the next session, if extended by resolution.

26. The Chairman said that the trade might wish to give views on the measures proposed in the Amendment Regulation. She suggested that a subcommittee should be formed. Mr IP Kwok-him and Mr LAU Ping-cheung expressed support for the suggestion.

27. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join : Mrs Selina CHOW, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Miriam LAU, Mr IP Kwok-him and Mr LAU Ping-cheung.

28. The Legal Adviser said that the Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2001 added two substances, namely, the gamma-hydroxybutyric acid and 4-methylthioamphetamine, to Part I of the First Schedule to the Dangerous Drugs Ordinance so that their import and export would require a licence from the Director of Health.

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The Legal Adviser added that the legal and drafting aspects of the Order were in order.

29. Members did not raise any query on this item of subsidiary legislation.

IV. Further report by the Legal Service Division on outstanding bills/subsidiary legislation

Legal Service Division's further report on Legal Notices No. 104 to 114 gazetted on 1 June 2001

(LC Paper No. LS 129/00-01)

30. Referring to the six items of subsidiary legislation relating to merchant shipping, the Legal Adviser said that the Legal Service Division had raised queries with the Administration on some technical matters, and that the Administration had agreed to rectify the drafting issue in a future exercise. The Legal Adviser further said that in the light of the Administration's undertaking to rectify the technical matters, it was recommended that intervention by LegCo was not necessary at this stage.

31. As regards the Freight Containers (Safety) (Examination Procedure) Order, the Legal Adviser pointed out that in relation to the English and Chinese text of the Order, the term "competent person" was omitted from the English text. The Administration had earlier responded that the Chinese text conveyed absolutely the same policy, and had the same legal effect, as the English text did. The Administration did not consider it necessary to change the structure of the English text to make it consistent with that of the Chinese text.

32. The Legal Adviser said that the drafting approach adopted for the English and Chinese texts of the provision concerned did not conform to the drafting policy agreed at the meeting of the LegCo Panel on Administration of Justice and Legal Services on 20 March 2001. At that meeting, it was agreed that as part of the drafting policy, the Chinese and English texts should match as far as possible.

33. The Legal Adviser further said that the Legal Service Division had just received a letter (tabled at the meeting) from the Secretary for Economic Services agreeing that where suitable opportunities arose in the future, the Administration would amend the Freight Containers (Safety) (Examination Procedure) Order by adding the term "competent person" to the English text of the Order.

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34. Miss Margaret NG said that it would be more appropriate to rectify the problem at the present stage. Moreover, there would be the possible question of retrospectivity, if the amendment was made on a future date.

35. The Chairman said that the amendment was simple and straightforward. She did not understand why the Administration had to wait for suitable opportunities to arise in the future to amend the Order.

36. Miss Margaret NG said that as the Administration and LegCo did not have different views on the amendment which was technical in nature, she did not see any problem if the amendment was to be initiated by Members. Miss NG suggested that the Chairman of the House Committee should move a motion to amend the Order. Mr Kenneth TING concurred with Miss Margaret NG.

37. The Chairman said that as the deadline for giving notice to extend the scrutiny period of these 11 items of subsidiary legislation to the Council meeting on 11 July 2001 was 28 June 2001, ahead of the House Committee meeting, she had already given notice to move a motion to extend the scrutiny period at the Council meeting on 4 July 2001, in case Members needed more time to consider these items of subsidiary legislation. The Chairman proposed that she would give notice to amend the Freight Containers (Safety) (Examination Procedure) Order at the Council meeting on 11 July 2001, subject to the scrutiny period being extended by resolution at the Council meeting on 4 July 2001. Members agreed.

V. Further business for the Council meeting on 4 July 2001

(a) Bills - resumption of debate on Second Reading, Committee Stage and Third Reading

(i) Dutiable Commodities (Amendment) Bill 2001

(ii) Attachment of Income Orders (Amendment) Bill 2001

38. The Chairman said that at the House Committee meeting on 22 June 2001, Members raised no objection to the resumption of the Second Reading debate on the above two Bills.

(b) Government motion

Proposed resolution under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) - to be moved by the Secretary for Information Technology and Broadcasting

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39. The Chairman said that the Subcommittee on Telecommunications (Method for Determining Spectrum Utilization Fees) (Third Generation Mobile Services) Regulation and Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilization Fees) Order had reported its deliberations on the Regulation and the Order at the last House Committee meeting. The Chairman further said that the Subcommittee supported the Regulation and the Order as well as the amendments to be moved by the Administration to the Regulation.

VI. Business for the Council meeting on 11 July 2001

(a) Questions

(LC Paper No. CB(3) 835/00-01)

40. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 11 July 2001.

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

Travel Agents (Amendment) Bill 2001

41. The Chairman said that the above Bill would be introduced into the Council on 11 July 2001.

(c) Bills - resumption of debate on Second Reading, Committee Stage and Third Reading

(i) Chief Executive Election Bill

(ii) Revenue (No.3) Bill 2001

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

(iv) Fixed Penalty (Public Cleanliness Offences) Bill

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

(vi) The Bank of East Asia, Limited Bill

42. The Chairman said that the Second Reading debates on the above Bills would be resumed on 11 July 2001.

(d) **Government motions**

(i) **Proposed resolution under section 29 of the Pharmacy and Poison Ordinance (Cap. 138) - to be moved by the Secretary for Health and Welfare**
(LC Paper No. LS 128/00-01)

43. Introducing the report, the Legal Adviser said that the motion sought LegCo's approval for the Pharmacy and Poisons (Amendment) (No.4) Regulation 2001 and the Poisons List (Amendment) (No.3) Regulation to add six new medicines to Part I of the Poisons List, and the First and Third Schedules to the Pharmacy and Poisons Regulations.

44. The Legal Adviser further said that the legal effect of such additions was that pharmaceutical products containing any of these six substances had to be sold in pharmacies under the supervision of registered pharmacists, with the support of prescriptions and proper record.

45. The Legal Adviser added that the two Amendment Regulations were legally in order.

46. Members did not raise any query on these two Amendment Regulations.

(ii) **Proposed resolution under section 7 of the Factories and Industrial Undertakings Ordinance (Cap. 59) relating to the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) (Amendment) Regulation 2001 - to be moved by the Secretary for Education and Manpower**
(LC Paper No. LS 135/00-01)

47. Referring to the report, the Legal Adviser explained that the proposed Amendment Regulation aimed to extend the coverage of the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (the principal Regulations) to the container handling industry and to enhance the professionalism and training of safety officers.

48. The Legal Adviser said that the Amendment Regulation would come into immediate operation, but a grace period of 12 months would be given for the container handling industry to prepare for its compliance with the principal Regulations.

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49. The Legal Adviser further said that the Panel on Manpower was briefed on the proposals in the Amendment Regulation in the last LegCo term. Mr LAU Chin-shek said that when the Panel on Manpower was consulted, members did not raise any objection to the proposal.

50. The Legal Adviser added that the Legal Service Division was awaiting a reply from the Administration on the drafting aspect of the Amendment Regulation. The Legal Service Division would provide a further report on the Amendment Regulation once the Administration's response was available.

(iii) Proposed resolution under section 7 of the Factories and Industrial Undertakings Ordinance (Cap. 59) relating to the Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation - to be moved by the Secretary for Education and Manpower
(LC Paper No. LS 137/00-01)

51. The Legal Adviser said that the Regulation sought to require a proprietor to ensure that gas welding and flame cutting work was only performed by a person who had attained the age of 18 years and who held a valid training certificate issued by the organiser of a training course. A person who was undergoing training could only perform gas welding and flame cutting work under the supervision of a qualified person. The Legal Adviser further said that the Regulation also required a proprietor to provide training courses to employees who were instructed to perform gas welding and flame cutting work. Non-compliance without reasonable excuse would be an offence liable to a fine at level 5(\$50,000).

52. The Legal Adviser added that the Panel on Manpower was informed of the proposal by circulation of papers. The Labour Advisory Board had also been consulted and endorsed the proposal.

53. The Legal Adviser said that the Regulation was in order from the legal and drafting points of view. He also drew Members' attention to a submission from the Welding Industry Employees Association (tabled at the meeting) to Mr CHAN Kwok-keung, Miss CHAN Yuen-han and Mr LEUNG Fu-wah.

54. Mr LAU Chin-shek suggested that the proposed Regulation be discussed by the Panel on Manpower at its meeting on 10 July 2001, as the three Members were also members of the Panel.

55. The Chairman said that given the concern expressed by the Association, the Regulation should be studied in detail. She suggested

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that the Administration should be asked to withdraw the notice of the motion.

56. Mr Kenneth TING said that there was no urgency for the proposed Regulation to come into effect. He agreed with the Chairman that the Administration should be requested to withdraw the notice of the motion to enable the industry and the public to give views, if they so wished.

57. Mr LAU Chin-shek sought clarification on the commencement date of the proposed Regulation. The Legal Adviser advised that the sections relating to the duty of proprietors to ensure that gas welding and flame cutting work was performed by competent persons, production of certificate as well as offences and penalties would come into operation on a day to be appointed by the Commissioner for Labour by notice in the Gazette. The other sections in the Regulation would come into operation on the day the Regulation was published in the Gazette.

58. Mr Fred LI suggested that a subcommittee should be formed to study the proposed Regulation. Mr LAU Chin-shek was of the view that the Panel on Manpower should first discuss the proposed Regulation at its meeting on 10 July 2001.

59. The Chairman proposed that the Administration should be requested to withdraw the notice of the motion, pending discussion of the proposed Regulation by the Panel on Manpower. Members agreed.

(e) **Members' motions**

(i) **Proposed resolution under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China - to be moved by Hon TSANG Yok-sing**

(Wording of the motion issued vide LC Paper No. CB(3) 821/00-01 dated 21 June 2001.)

60. The Chairman said that Mr TSANG yok-sing would move the above motion on 11 July 2001. She reminded Members that the speaking time limit was not more than 15 minutes for each Member.

(ii) **Motion on "The cosmopolitan city"**

61. The Chairman said that the above motion would be moved by Mr LEE Chu-ming and the wording had been issued to Members.

(iii) Motion on "Expediting the development of the logistics industry"

62. The Chairman said that the above motion would be moved by Mr Kenneth TING Woo-shou and the wording had been issued to Members.

63. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the two motions was 4 July 2001.

VII. Bills Committee and subcommittee reports

(a) Position report on Bills Committees/subcommittees
(LC Paper No. CB(2) 1954/00-01)

64. The Chairman said that there were 12 Bills Committees and three subcommittees in action, as well as eight Bills Committees, including the two Bills Committees just formed under agenda items II(b) and III(a) above, on the waiting list. The Chairman further said that as there were three vacant slots, they would be taken up by the Bills Committee on the Companies (Corporate Rescue) Bill, the Bills Committee on the Hong Kong Court of Final Appeal (Amendment) Bill 2001 and the Bills Committee on the Road Traffic Legislation (Amendment) Bill 2001 on the waiting list.

(b) Report of the Bills Committee on Chief Executive Election Bill
(LC Paper No. CB(2) 1944/00-01)

65. Mr IP Kwok-him, Chairman of the Bills Committee, said that the deliberations of the Bills Committee were detailed in the report and he had nothing to add.

66. Referring to paragraph 44 of the report, Mr Martin LEE said that some members of the Bills Committee including himself disagreed that the Legal Adviser should have referred to a speech of Mr JI Peng-fai, Chairman of the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region (HKSAR), to support his analysis. Mr LEE asked the Legal Adviser whether he would arrive at the same conclusion in paragraph 39 of the report that there was an implied power in the Basic Law for the Central People's Government (CPG) to revoke the appointment of the CE, if reference was not made to Mr JI's speech in his analysis.

67. The Legal Adviser explained that his advice was to assist members of the Bills Committee in analysing the various issues pertinent to the

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discussion of clause 4. He added that he considered it not necessary to refer to Mr JI's speech concerning the relationship between the executive authorities and the legislature in the conclusion presented to the Bills Committee after listening to views expressed at the last Bills Committee meeting.

68. Mr Martin LEE pointed out that the Bills Committee had 31 members, but some of them seldom attended the meetings of the Bills Committee. He considered the situation unsatisfactory. The Chairman responded that Members were accountable to their constituents and the public for their performance as legislators.

69. The Chairman informed Members that the Administration had given notice to resume the Second Reading debate on the Bill on 11 July 2001. She reminded Members that the deadline for notice of Committee Stage amendments (CSAs) was 30 June 2001.

(c) **Report of the Bills Committee on Revenue (No.3) Bill 2001**
(LC Paper No. CB(2) 1942/00-01)

70. The Chairman said that Miss Margaret NG, Chairman of the Bills Committee, had made a verbal report at the last meeting. The Bills Committee's written report was now provided for Members' information.

(d) **Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2001**
(LC Paper No. CB(1) 1642/00-01)

71. Introducing the report, Mr Kenneth TING, Chairman of the Bills Committee, said that the Bills Committee had completed scrutiny of the Bill. The Bills Committee supported the principle of the Bill which sought to provide a legal framework for the use of electronic data interchange (EDI) in processing Dutiable Commodities Permits (DCPs).

72. Mr TING further said that at the meeting of the Panel on Commerce and Industry on 26 June 2001, some depositions had expressed concern about the fees charged by Tradelink and had also raised certain technical problems. Mr TING explained that the Bill did not make it mandatory for traders to switch immediately to use EDI to process DCP applications, and that traders still had the choice of using the paper mode until a date to be determined by way of subsidiary legislation. The Bills Committee therefore had no objection to the resumption of the Second Reading debate on the Bill on 4 July 2001.

73. Mr TING added that the Administration intended to bring the Dutiable Commodities (Amendment) Regulation 2001, which made

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provisions for the use of a particular electronic service for DCP applications, into effect on 20 July 2001 after the passage of the Bill. This was contrary to the long-standing arrangement with the Administration that it should allow sufficient time for LegCo to scrutinise an item of subsidiary legislation before it became effective.

74. Mr TING said that most members of the Bills Committee had expressed reservations about the Administration's proposal to allow the Regulation to come into force before the scrutiny period expired. However, as the Regulation was outside the purview of the Bills Committee, members did not consider it appropriate to examine the Regulation or make any specific recommendation in this regard.

75. The Chairman said that some deputations had expressed concern about certain technical problems. She invited Members' views as to whether the Administration should be requested to postpone the coming into operation of the Regulation until the end of the scrutiny period.

76. Miss Emily LAU sought clarification on the impact on the trade if the Bill and the Regulation did not come into operation in July 2001. She said that if the proposed legislation would create genuine difficulties for the trade, Members would need to deal with the problem and might have to consider voting against the Bill, if necessary.

77. Mr Kenneth TING explained that the Bill allowed traders to continue to use the paper mode, which was free of charge, for processing DCP applications. The Bills Committee supported the Bill, but disagreed that the Regulation should be brought into operation before LegCo could have the opportunity to scrutinise it. He said that the Administration did not accept the Bills Committee's suggestion that the Regulation should come into operation after the expiry of the scrutiny period.

78. Mr SIN Chung-kai pointed out that the Bill only provided an option for the industry to use EDI for processing DCP applications. It would not cause any loss or damage to the traders concerned, and the technical problems raised by the deputations could be resolved. He added that Members should examine the Regulation in detail when the next session commenced in October 2001.

79. Miss Margaret NG said that if the problem was about the commencement of the Bill, Members might consider moving a CSA to amend the commencement date of the Bill.

80. Mr HUI Cheung-ching said that despite the Administration's advice that the industry had not raised objection to the proposed legislation, some deputations had expressed concern about the technical

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problems in using EDI for processing DCP applications at the meeting of the Panel on Commerce and Industry on 26 June 2001. There were also criticisms that Tradelink had not provided sufficient training to the traders to use EDI to process DCP applications. Mr HUI further said that the Administration should hold discussion with the industry to resolve the technical problems, and Members could assess in October 2001 whether satisfactory progress had been made in this respect.

81. Mr SIN Chung-kai pointed out that in considering whether a CSA should be moved to postpone the coming into operation of the Bill, Members should have regard to the information provided by the Administration that some companies would like to switch immediately to use EDI to process DCP applications. As other traders could still use the paper mode if they so wished, Mr SIN did not see the need for postponing the commencement of the proposed legislation.

82. Mr Henry WU said that as the Bill only aimed at providing an option for those traders who were ready and willing to use EDI to process DCP applications, he did not consider it necessary to postpone the commencement of the Bill.

83. Mr CHAN Kam-lam agreed that it was not necessary to defer the commencement date of the Bill, and that it would be for the Administration to resolve the technical problems with the industry.

84. The Chairman requested Mr Kenneth TING to relay members' views to the Administration.

(e) **Third report of the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement**
(*LC Paper No. AS 389/00-01*)

85. Introducing the paper, Mr NG Leung-sing, Chairman of the Subcommittee, reported that the Chairman of the House Committee had written to CS on 13 December 2000 conveying Members' views and recommendations on the annual adjustment mechanism and the level of Members' remuneration and the Office Operation Expenses Reimbursement (OOER). Mr NG said that CS had replied on 14 June 2001 conveying the recommendations of the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the HKSAR (Independent Commission), which had been approved by CE on the advice of the Executive Council.

86. Mr NG further said that the Independent Commission's recommendations were detailed in paragraphs 2 and 3 of the paper. In essence, the OOER of Members would be increased by \$25,000 per month,

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and Members would be given the option of an alternative mechanism for annual adjustment to the OOER. The Independent Commission had proposed that the OOER be divided into two components, one for expenses relating to staff salaries and office accommodation and the other for other operating expenses. While the component covering staff and office accommodation expenses would be “fixed” for the entire term, the other component was “variable” and would continue to be adjusted in accordance with the movement of the CPI(C).

87. Mr NG explained that the Independent Commission recommended that the proportion between the “fixed” and the “variable” components in the OOER would be determined in consultation with LegCo Members in the light of the actual expenditure pattern.

88. Mr NG further said that the Subcommittee had held two meetings to discuss the alternative mechanism for annual adjustments to the OOER. The Subcommittee noted that according to the survey of Members’ actual OOER for the period October to December 2000 conducted by the LegCo Secretariat, the staff and office accommodation expenses constituted about 70%-80% of Members’ OOER.

89. Mr NG informed Members that a consultation paper was subsequently issued to seek Members’ views on their preference for the existing annual mechanism in accordance with CPI(C) or the alternative adjustment mechanism. Up to 29 June 2001, 52 Members had responded; 16 of them preferred the existing mechanism, 17 Members preferred the alternative mechanism with different views on the percentage of the component covering staff and office accommodation expenses, while 19 Members gave other suggestions. However, of the 19 Members who gave other suggestions, 18 Members also indicated that if their suggestions were not accepted, they would prefer the existing mechanism.

90. Mr NG said that the Administration had responded that there would be technical difficulties in determining the ratios for the different components of the OOER given the great differences in Members’ expenditure pattern on staff salaries, office accommodation and other expenses as suggested by some Members. The Subcommittee was of the view that Members might need more time to consider another alternative mechanism. In view of the stated preference of the 34 Members (16 who preferred the existing mechanism and 18 who would opt for the existing mechanism if their suggestions were not accepted), and that the proposal would have to be forwarded to the Finance Committee for consideration on 6 July 2001, the Subcommittee recommended that the existing annual adjustment mechanism should continue for the time being.

Action

91. Members endorsed the recommendation of the Subcommittee that the existing annual adjustment mechanism for the OOER should continue.

VIII. Any other business

92. There being no further business, the meeting ended at 4:35 pm.

Legislative Council Secretariat
5 July 2001