

LEGISLATIVE COUNCIL

MINUTES

No. 11

Minutes of the meeting held on Wednesday 19 December 2001 at 2:30 pm

Members present:

President

The Hon Mrs Rita FAN HSU Lai-tai, GBS, JP

The Hon Kenneth TING Woo-shou, JP

The Hon James TIEN Pei-chun, GBS, JP

Dr the Hon David CHU Yu-lin, JP

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, JP

The Hon LEE Cheuk-yan

The Hon Martin LEE Chu-ming, SC, JP

The Hon Eric LI Ka-cheung, JP

Dr the Hon David LI Kwok-po, GBS, JP

The Hon Fred LI Wah-ming, JP

Dr the Hon LUI Ming-wah, JP

The Hon NG Leung-sing, JP

The Hon Margaret NG

The Hon Mrs Selina CHOW LIANG Shuk-yee, JP

The Hon James TO Kun-sun

The Hon CHEUNG Man-kwong

The Hon HUI Cheung-ching, JP
The Hon CHAN Kwok-keung
The Hon CHAN Yuen-han, JP
The Hon Bernard CHAN
The Hon CHAN Kam-lam
The Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
The Hon LEUNG Yiu-chung
The Hon SIN Chung-kai
The Hon Andrew WONG Wang-fat, JP
Dr the Hon Philip WONG Yu-hong
The Hon WONG Yung-kan
The Hon Jasper TSANG Yok-sing, JP
The Hon Howard YOUNG, JP
Dr the Hon YEUNG Sum
The Hon YEUNG Yiu-chung, BBS
The Hon LAU Kong-wah
The Hon LAU Wong-fat, GBS, JP
The Hon Miriam LAU Kin-yee, JP
The Hon Ambrose LAU Hon-chuen, GBS, JP
The Hon Emily LAU Wai-hing, JP
The Hon CHOY So-yuk
The Hon Andrew CHENG Kar-foo
The Hon SZETO Wah
The Hon Timothy FOK Tsun-ting, SBS, JP
The Hon LAW Chi-kwong, JP
The Hon TAM Yiu-chung, GBS, JP
Dr the Hon TANG Siu-tong, JP

The Hon Abraham SHEK Lai-him, JP
The Hon LI Fung-ying, JP
The Hon Henry WU King-cheong, BBS
The Hon Tommy CHEUNG Yu-yan, JP
The Hon Michael MAK Kwok-fung
The Hon Albert CHAN Wai-yip
The Hon LEUNG Fu-wah, MH, JP
Dr the Hon LO Wing-lok
The Hon Frederick FUNG Kin-kee
The Hon IP Kwok-him, JP
The Hon LAU Ping-cheung
The Hon Audrey EU Yuet-mee, SC, JP
The Hon MA Fung-kwok

Members absent:

The Hon Cyd HO Sau-lan
The Hon LAU Chin-shek, JP
The Hon WONG Sing-chi

Public officers attending:

The Honourable Donald TSANG Yam-kuen, JP
The Chief Secretary for Administration

The Honourable Antony LEUNG Kam-chung, GBS, JP
The Financial Secretary

The Honourable Elsie LEUNG Oi-sie, JP
The Secretary for Justice

Mr Michael SUEN Ming-yeung, GBS, JP
Secretary for Constitutional Affairs

Mr CHAU Tak-hay, JP
Secretary for Commerce and Industry

Mr Nicholas NG Wing-fui, JP
Secretary for Transport

Mr Dominic WONG Shing-wah, GBS, JP
Secretary for Housing

Mr LAM Woon-kwong, GBS, JP
Secretary for Home Affairs

Mr Stephen IP Shu-kwan, GBS, JP
Secretary for Financial Services

Mrs Lily YAM KWAN Pui-ying, JP
Secretary for the Environment and Food

Mrs Regina IP LAU Suk-yee, JP
Secretary for Security

Mrs Fanny LAW FAN Chiu-fun, JP
Secretary for Education and Manpower

Mrs Carrie YAU TSANG Ka-lai, JP
Secretary for Information Technology and Broadcasting

Ms Sandra LEE Suk-yee, JP
Secretary for Economic Services

Mr Thomas YIU Kei-chung, JP
Secretary for Health and Welfare

Clerks in attendance:

Mr Ricky FUNG Choi-cheung, JP, Secretary General

Mr LAW Kam-sang, JP, Deputy Secretary General

Mrs Justina LAM CHENG Bo-ling, Assistant Secretary General (2)

Mr Ray CHAN Yum-mou, Assistant Secretary General (3)

Tabling of Papers

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

<u>Subsidiary Legislation / Instruments</u>	<u>L.N. No.</u>
1. Film Censorship (Amendment) Regulation 2001 (gazetted on 14.12.2001)	266/2001
2. Designation of Libraries (No. 4) Order 2001 (gazetted on 14.12.2001)	267/2001
3. Electronic Transactions (Exclusion) (Amendment) Order 2001 (gazetted on 14.12.2001)	268/2001
4. Commodities Trading (Trading Limits and Position Limits) (Amendment) (No. 4) Rules 2001 (gazetted on 14.12.2001)	269/2001
5. Matrimonial Causes (Amendment) Rules 2001 (gazetted on 14.12.2001)	270/2001
6. Merchant Shipping (Local Vessels) (Conduct of Inquiries) Rules (gazetted on 14.12.2001)	271/2001
7. Antiquities and Monuments (Declaration of Historical Buildings) Notice 2001 (gazetted on 14.12.2001)	272/2001
8. The Ombudsman (Amendment) Ordinance 2001 (30 of 2001) (Commencement) Notice 2001 (gazetted on 14.12.2001)	273/2001
9. Public Health (Animals and Birds) (Chemical Residues) Regulation (L.N. 146 of 2001) (Commencement) Notice 2001 (gazetted on 14.12.2001)	274/2001
10. Harmful Substances in Food (Amendment) Regulation 2001 (L.N. 148 of 2001) (Commencement) Notice 2001 (gazetted on 14.12.2001)	275/2001
11. Public Health (Animals and Birds) (Amendment) Regulation 2001 (L.N. 218 of 2001) (Commencement) Notice 2001 (gazetted on 14.12.2001)	276/2001
12. Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2001 (L.N. 219 of 2001) (Commencement) Notice 2001 (gazetted on 14.12.2001)	277/2001

13. Food Business (Amendment) Regulation 2001 278/2001
(L.N. 220 of 2001) (Commencement) Notice
2001 (gazetted on 14.12.2001)

Other Papers

- No.42 - Police Welfare Fund
Annual Report 2000/2001 (published on 12.12.2001)
- No.43 - The Accounts of the Lotteries Fund 2000-01
(published on 13.12.2001)
- No.44 - Report on the Administration of the Fire Services
Welfare Fund together with the Director of Audit's
Report and Audited Statement of Accounts for the
year ended 31 March 2001 (published on 13.12.2001)
- No.45 - Fortieth Annual Report by the Social Work Training
Fund Trustee for the year ending on 31 March 2001
(published on 14.12.2001)
- No.46 - Emergency Relief Fund
Annual Report by the Trustee for the year ending on
31 March 2001 (published on 14.12.2001)
- No.47 - Hong Kong Housing Authority
Annual Report 2000/2001 (published on 14.12.2001)
- No.48 - Hong Kong Housing Authority
Financial Statements for the year ended 31
March 2001 (published on 14.12.2001)
- Report of the Bills Committee on Kowloon-Canton Railway
Corporation (Amendment) Bill 2001 (published on 14.12.2001)
- Report of the Bills Committee on Banking (Amendment) Bill
2001 (published on 12.12.2001)

Questions

1. Hon Abraham SHEK asked Question 1.

The Secretary for Information Technology and Broadcasting
replied.

10 Members asked supplementaries and the Secretary for
Information Technology and Broadcasting replied.

2. Hon Tommy CHEUNG asked Question 2.

The Secretary for the Environment and Food replied.

Seven Members asked supplementaries and the Secretary for the Environment and Food replied.

3. Hon Margaret NG asked Question 3.

The Secretary for Security replied.

Four Members asked supplementaries and the Secretary for Security replied.

4. Hon Emily LAU asked Question 4.

The Secretary for Commerce and Industry replied.

Six Members asked supplementaries and the Secretary for Commerce and Industry replied.

5. Hon Michael MAK asked Question 5.

The Secretary for Home Affairs replied.

Five Members asked supplementaries. The Secretary for Home Affairs and the Secretary for Health and Welfare replied.

6. Hon HUI Cheung-ching asked Question 6.

The Secretary for Economic Services replied.

Five Members asked supplementaries and the Secretary for Economic Services replied.

Written replies to Questions 7 to 20 were tabled for Members' information.

Bills

First Reading

Adaptation of Laws Bill 2001

Copyright (Amendment) Bill 2001

The Bills were read the first time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

As the Chief Secretary for Administration, who was to move the Second Reading of the Adaptation of Laws Bill 2001, was not in the Chamber, the President suspended the meeting at 4:25 pm.

The Council resumed at 4:30 pm.

Second Reading

Adaptation of Laws Bill 2001

The Chief Secretary for Administration moved the Second Reading and addressed the Council.

Question on the Second Reading proposed. The President stated that in accordance with Rule 54(4) of the Rules of Procedure, the debate was adjourned and the Bill was referred to the House Committee.

Copyright (Amendment) Bill 2001

The Secretary for Commerce and Industry moved the Second Reading and addressed the Council.

Question on the Second Reading proposed. The President stated that in accordance with Rule 54(4) of the Rules of Procedure, the debate was adjourned and the Bill was referred to the House Committee.

Kowloon-Canton Railway Corporation (Amendment) Bill 2001

Resumption of Second Reading debate

The debate on the Second Reading which had been moved on 31 October 2001 resumed.

Hon Miriam LAU, Chairman of the Bills Committee on Kowloon-Canton Railway Corporation (Amendment) Bill 2001, addressed the Council on the Report of the Bills Committee on the Bill.

Two Members spoke on the Bill.

The Secretary for Transport replied.

Question on the Second Reading put and agreed to.

Bill read the second time and committed to a Committee of the whole Council.

Committee Stage

The Council went into Committee and considered the **Kowloon-Canton Railway Corporation (Amendment) Bill 2001**.

Question that clauses 1, 2, 4, 5 and 7 stand part of the Bill proposed, put and agreed to.

Question that clause 3 stand part of the Bill proposed.

The Secretary for Transport moved an amendment to clause 3 and addressed the Committee.

Question on the amendment put and agreed to.

Question that clause 3, as amended, stand part of the Bill proposed, put and agreed to.

Question that clause 6 stand part of the Bill proposed.

Hon Andrew CHENG moved an amendment to sub-clause (1) of clause 6 and addressed the Committee.

Five Members and the Secretary for Transport spoke on the amendment.

Hon Andrew CHENG spoke again.

Two Members who had spoken and the Secretary for Transport spoke again on the amendment.

Another Member, who had spoken, spoke again on the amendment.

Question on the amendment put.

Hon Andrew CHENG claimed a division. The Chairman then ordered the Committee to divide under Rule 47(1) of the Rules of Procedure.

The Chairman announced that among the Members returned by functional constituencies, 29 were present, four were in favour of the amendment, 23 against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 13 were in favour of the amendment and 11 against it. (Voting record in Appendix I.) Since the question was not agreed by a majority of each of the two groups of Members present, she declared that the amendment was negatived.

Hon Andrew CHENG moved an amendment to add sub-clause (1A) to clause 6 and addressed the Committee.

The Secretary for Transport spoke on the amendment.

Question on the amendment put.

Hon Andrew CHENG claimed a division. The Chairman then ordered the Committee to divide under Rule 47(1) of the Rules of Procedure.

The Chairman announced that among the Members returned by functional constituencies, 29 were present, five were in favour of the amendment, 23 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 13 were in favour of the amendment and 11 against it. (Voting record in Appendix II.) Since the question was not agreed by a majority of each of the two groups of Members present, she declared that the amendment was negatived.

Question that clause 6 stand part of the Bill proposed, put and agreed to.

New clause 3A read the first time.

The Secretary for Transport moved the Second Reading of new clause 3A and addressed the Committee.

Question on the Second Reading of new clause 3A proposed.

Two Members spoke on the motion.

Question on the Second Reading of new clause 3A put and agreed to.

New clause 3A read the second time.

The Secretary for Transport moved the addition of new clause 3A to the Bill.

Question on the addition proposed, put and agreed to.

The Council then resumed.

Third Reading

The Secretary for Transport reported that

the **Kowloon-Canton Railway Corporation (Amendment)**
Bill 2001

had passed through the Committee with amendments. He moved that the Bill be read the third time and do pass.

Question on the Third Reading proposed, put and agreed to.

Bill read the third time and passed.

Banking (Amendment) Bill 2001

Resumption of Second Reading debate

The debate on the Second Reading which had been moved on 4 April 2001 resumed.

Hon TSANG Yok-sing, Chairman of the Bills Committee on Banking (Amendment) Bill 2001, addressed the Council on the Report of the Bills Committee on the Bill.

Two Members spoke on the Bill.

The Secretary for Financial Services replied.

Question on the Second Reading put and agreed to.

Bill read the second time and committed to a Committee of the whole Council.

Committee Stage

The Council went into Committee and considered the **Banking (Amendment) Bill 2001**.

Question that clauses 1, 3 to 16, 18, 19, 20 and 23 to 28 stand part of the Bill proposed, put and agreed to.

Question that clauses 2, 17, 21, 22 and 29 stand part of the Bill proposed.

The Secretary for Financial Services moved amendments to the aforesaid clauses and addressed the Committee.

Question on the amendments put and agreed to.

Question that clauses 2, 17, 21, 22 and 29, as amended, stand part of the Bill proposed, put and agreed to.

The Council then resumed.

Third Reading

The Secretary for Financial Services reported that

the **Banking (Amendment) Bill 2001**

had passed through the Committee with amendments. He moved that the Bill be read the third time and do pass.

Question on the Third Reading proposed, put and agreed to.

Bill read the third time and passed.

Motions

Proposed resolution under the Interpretation and General Clauses Ordinance

The Secretary for Constitutional Affairs moved the following motion and addressed the Council:

Resolved that the Chief Executive Election (Election Petition) Rules, published in the Gazette as Legal Notice No. 241 of 2001 and laid on the table of the Legislative Council on 21 November 2001, be amended -

- (a) in section 9(2), by repealing “控罪” and substituting “指控” ;
- (b) in section 15 -
 - (i) in subsection (1)(b) and (c), by repealing “due to his death or otherwise” ;
 - (ii) in subsection (2), by repealing “the proceedings for a petition shall be” and substituting “a petition is”.

Question on the motion proposed.

Hon IP Kwok-him, Chairman of the Subcommittee formed to study the subsidiary legislation relating to Chief Executive election, spoke on the motion.

A Member spoke on the motion.

The Secretary for Constitutional Affairs replied.

Question on the motion put and agreed to.

Proposed resolution under the Pharmacy and Poisons Ordinance

The Secretary for Health and Welfare moved the following motion and addressed the Council:

Resolved that -

(a) the Pharmacy and Poisons (Amendment)(No. 5) Regulation 2001; and

(b) the Poisons List (Amendment)(No. 4) Regulation 2001,

made by the Pharmacy and Poisons Board on 26 November 2001 be approved.

Question on the motion proposed, put and agreed to.

Proposed resolutions under the Mutual Legal Assistance in Criminal Matters Ordinance

1. The Mutual Legal Assistance in Criminal Matters (Canada) Order

The Secretary for Security moved the following motion and addressed the Council:

Resolved that the Mutual Legal Assistance in Criminal Matters (Canada) Order, made by the Chief Executive in Council on 18 September 2001, be approved.

Question on the motion proposed.

Hon James TO, Chairman of the Subcommittee formed to study the Mutual Legal Assistance in Criminal Matters (Canada) Order, the Mutual Legal Assistance in Criminal Matters (Philippines) Order and the Mutual Legal Assistance in Criminal Matters (Portugal) Order, spoke on the motion.

Question on the motion put and agreed to.

2. The Mutual Legal Assistance in Criminal Matters (Philippines) Order

The Secretary for Security moved the following motion and addressed the Council:

Resolved that the Mutual Legal Assistance in Criminal Matters (Philippines) Order, made by the Chief Executive in Council on 18 September 2001, be approved.

Question on the motion proposed, put and agreed to.

3. The Mutual Legal Assistance in Criminal Matters (Portugal) Order

The Secretary for Security moved the following motion and addressed the Council:

Resolved that the Mutual Legal Assistance in Criminal Matters (Portugal) Order, made by the Chief Executive in Council on 18 September 2001, be approved.

Question on the motion proposed, put and agreed to.

Members' Bills

Second Reading

Mizuho Corporate Bank, Ltd. (Hong Kong Consolidation) Bill

Resumption of Second Reading debate

The debate on the Second Reading which had been moved on 5 December 2001 resumed.

The Secretary for Financial Services spoke on the Bill.

Dr Hon David LI replied.

Question on the Second Reading put and agreed to.

Bill read the second time and committed to a Committee of the whole Council.

Committee Stage

The Council went into Committee and considered the **Mizuho Corporate Bank, Ltd. (Hong Kong Consolidation) Bill**.

Question that clauses 1 and 3 to 19 stand part of the Bill proposed, put and agreed to.

Question that clause 2 stand part of the Bill proposed.

Dr Hon David LI moved amendment to clause 2 and addressed the Committee.

Question on the amendment put and agreed to.

Question that clause 2, as amended, stand part of the Bill proposed, put and agreed to.

Question about the preamble to the Bill proposed, put and agreed to.

The Council then resumed.

Third Reading

Dr Hon David LI reported that

the Mizuho Corporate Bank, Ltd. (Hong Kong Consolidation) Bill

had passed through the Committee with amendment. He moved that the Bill be read the third time and do pass.

Question on the Third Reading proposed, put and agreed to.

Bill read the third time and passed.

The Bank of East Asia, Limited (Merger) Bill

Resumption of Second Reading debate

The debate on the Second Reading which had been moved on 5 December 2001 resumed.

Question on the Second Reading put and agreed to.

Bill read the second time and committed to a Committee of the whole Council.

Committee Stage

The Council went into Committee and considered **The Bank of East Asia, Limited (Merger) Bill**.

Question that clauses 1 to 18 stand part of the Bill proposed, put and agreed to.

Question about the preamble to the Bill proposed, put and agreed to.

The Council then resumed.

Third Reading

Hon NG Leung-sing reported that

The Bank of East Asia, Limited (Merger) Bill

had passed through the Committee without amendment. He moved that the Bill be read the third time and do pass.

Question on the Third Reading proposed, put and agreed to.

Bill read the third time and passed.

Members' Motions

Proposed resolution under the Interpretation and General Clauses Ordinance

Hon Kenneth TING moved the following motion and addressed the Council:

Resolved that in relation to the -

- (a) Dutiable Commodities (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 248 of 2001 and laid on the table of the Legislative Council on 28 November 2001;
- (b) Dutiable Commodities (Amendment) Ordinance 2001 (19 of 2001) (Commencement) Notice 2001, published in the Gazette as Legal Notice No. 255 of 2001 and laid on the table of the Legislative Council on 5 December 2001; and
- (c) Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001) (Commencement) Notice 2001, published in the Gazette as Legal Notice No. 256 of 2001 and laid on the table of the Legislative Council on 5 December 2001,

the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) for amending subsidiary legislation be extended under section 34(4) of that Ordinance to the meeting of 9 January 2002.

Question on the motion proposed, put and agreed to.

Strengthening co-operation with Guangdong in developing the logistics industry

Hon HUI Cheung-ching moved the following motion and addressed the Council:

That, as both Hong Kong and Guangdong have been vigorously developing the logistics industry in recent years but have rarely engaged in co-operative projects, in order to avoid harmful competition, this Council urges the Government to:

- (a) apart from studying the co-development of Nansha, explore more options with the Guangdong Provincial Government for strengthening co-operation and the streamlining of the logistics industry and co-ordinating more effectively the development objectives and strategies in both places;
- (b) as far as possible, accord priority in allocating resources for cross-boundary sea, land and air transport infrastructural projects and expeditiously remove the

barriers hindering the operation of the logistics businesses in both places, including implementing round-the-clock cargo clearance for laden goods vehicles in other border control points, actively studying the construction of a bridge connecting Hong Kong, Macau and Zhuhai, granting traffic rights for air cargo services as appropriate, implementing the streaming and connection of flight routes with the airports in the Pearl River Delta, and establishing a technology platform whereby Hong Kong and Guangdong can exchange logistics information; and

- (c) encourage enterprises in Hong Kong and Guangdong to invest in each other's logistics industry and infrastructural services relating to sea, land and air transport.

While Hon HUI Cheung-ching was addressing the Council, the President left the chair at 7:55 pm temporarily and the President's Deputy, Hon Mrs Selina CHOW, took the chair.

Question on Hon HUI Cheung-ching's motion proposed.

The President's Deputy stated that Hon SIN Chung-kai would move an amendment to the motion. In accordance with the Rules of Procedure, the motion and the amendment would be debated together in a joint debate.

Hon SIN Chung-kai moved the following amendment to Hon HUI Cheung-ching's motion and addressed the Council:

To delete "apart from studying the co-development of Nansha," after "(a)" and substitute with "comprehensively"; and to delete "more" after "explore" and substitute with "various feasible".

Question on Hon SIN Chung-kai's amendment to Hon HUI Cheung-ching's motion proposed.

12 Members spoke on the motion and the amendment.

Hon HUI Cheung-ching spoke on the amendment.

The Secretary for Economic Services spoke on the motion and the amendment.

At 9:22 pm, while the Secretary for Economic Services was speaking, the President resumed the chair.

Question on Hon SIN Chung-kai's amendment to Hon HUI Cheung-ching's motion put.

Hon SIN Chung-kai claimed a division. The President then ordered the Council to divide under Rule 47(1) of the Rules of Procedure.

The President announced that among the Members returned by functional constituencies, 23 were present, 15 were in favour of the amendment and eight against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, 14 were in favour of the amendment and eight against it. (Voting record in the Appendix III.) Since the question was agreed by a majority of each of the two groups of Members present, she declared that the amendment was agreed.

Hon HUI Cheung-ching replied.

Question on Hon HUI Cheung-ching's motion as amended by Hon SIN Chung-kai put and agreed to.

Opposing unfair competition

Hon LEUNG Yiu-chung moved the following motion and addressed the Council:

That, as currently unreasonable market domination and unfair competition exist in such domains as power supply, gas, petroleum products, supermarkets, container terminals and their complementary services, and the Easy Pay System, and the trend tends to escalate, thereby adversely affecting people's livelihood as well as industrial and commercial enterprises, this Council urges the Government to expeditiously enact a fair competition law and set up a fair competition authority, so as to promote fair competition and safeguard the rights and interests of the public.

Question on the motion proposed.

15 Members and the Secretary for Economic Services spoke on the motion.

Hon LEUNG Yiu-chung replied.

Question on the motion put.

Hon LEUNG Yiu-chung claimed a division. The President then ordered the Council to divide under Rule 47(1) of the Rules of Procedure.

The President announced that among the Members returned by functional constituencies, 23 were present, five were in favour of the motion, 17 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 12 were in favour of the motion and nine against it. (Voting record in Appendix IV.) Since the question was not

agreed by a majority of each of the two groups of Members present, she declared that the motion was negatived.

Next Meeting

The President declared that the next meeting of the Council would be held on 9 January 2002 at 2:30 pm.

The Council was adjourned at 11:36 pm.

(Mrs Rita FAN HSU Lai-tai)
President

Council Chamber
Hong Kong