

立法會
Legislative Council

LC Paper No. CB(2) 649/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 8th meeting
held in the Legislative Council Chamber
at 4:00 pm on Friday, 7 December 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, GBS, JP
Dr 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
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
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 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
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah

Hon Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
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
Dr Hon LO Wing-lok
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
Hon MA Fung-kwok

Members absent :

Hon Eric LI Ka-cheung, JP
Hon James TO Kun-sun
Hon Howard YOUNG, JP
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP

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
Ms Bernice WONG	Assistant Legal Adviser 1

Mr Stephen LAM	Assistant Legal Adviser 4
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Assistant Secretary (1)2
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

Action

**I. Confirmation of the minutes of the 7th meeting held on 30 November 2001
(LC Paper No. CB(2) 568/01-02)**

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that she had conveyed to CS Members' request that the special meeting of the House Committee on 14 December 2001 should last for two hours. CS was of the view that one hour should be sufficient for dealing with the subject of 24-hour operation at boundary control points. He undertook to be brief in his opening speech.

3. The Chairman further said that she had suggested to CS that the duration of the meeting should be about one and a half hours. The Chairman added that the Administration would provide by Monday, 10 December 2001, a paper for the special meeting.

III. Business arising from previous Council meetings

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

(i) Mizuho Corporate Bank, Ltd. (Hong Kong Consolidation) Bill
(LC Paper No. LS 33/01-02)

4. Referring to the paper, the Legal Adviser said that this was a Member's Bill presented by Dr David LI to provide for the vesting in The Fuji Bank, Limited of certain undertakings of The Dai-Ichi Kangyo Bank, Limited and

Action

The Industrial Bank of Japan, Limited, and for other related purposes.

5. The Legal adviser further said that when the Panel on Financial Affairs was briefed on 5 November 2001, the Administration welcomed the introduction of the Bill, and advised that the Monetary Authority considered that the proposed consolidation would help promote stability of the banking sector. The Panel was also informed that the global re-organisation and consolidation of the Mizuho Financial Group was scheduled to take effect on 1 April 2002.

6. The Legal Adviser informed Members that the Administration had agreed in principle to introduce exemption provisions to the Personal Data (Privacy) Ordinance regarding the transfer of personal data in acquisition or merger activities, but it would be unlikely that such amendments would be enacted before 1 April 2002.

7. The Legal Adviser added that at the suggestion of the Legal Service Division, Dr David LI had agreed to move a Committee Stage amendment (CSA) to improve the Chinese text of clause 2(2) of the Bill. He advised that with the proposed CSA, the Bill was legally in order.

8. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(ii) The Bank of East Asia, Limited (Merger) Bill
(LC Paper No. LS 32/01-02)

9. The Legal Adviser said that the Bill was a Member's Bill presented by Mr NG Leung-sing to provide for the vesting in The Bank of East Asia, Limited of the undertaking of First Pacific Bank Limited, and for other related purposes.

10. The Legal Adviser further said that the Panel on Financial Affairs was briefed on the Bill on 5 November 2001, and the Bill was legally in order.

11. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(b) Legal Service Division report on subsidiary legislation gazetted on 30 November 2001

(LC Paper No. LS 30/01-02)

12. The Legal Adviser said that the report covered four items of subsidiary legislation gazetted on 30 November 2001.

Action

13. The Legal Adviser said that the Dutiable Commodities (Amendment) Ordinance 2001 (19 of 2001) (Commencement) Notice 2001 and the Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001) (Commencement) Notice 2001 appointed 10 January 2002 as the day on which the Amending Ordinance and the Amending Regulation would come into operation, with the exception of section 9 (relating to import and export statements) of the Amending Ordinance and section 5 (relating to record of goods) of the Amending Regulation.

14. The Legal Adviser further said that as a subcommittee had been formed to study the Dutiable Commodities (Amendment) Regulation 2001, Members might wish to consider requesting the Subcommittee to also study these two items of subsidiary legislation.

15. The Chairman proposed that the Subcommittee on the Dutiable Commodities (Amendment) Regulation 2001 should also examine the two Commencement Notices. Members agreed.

16. The Chairman reminded Members that the deadline for amending these four items of subsidiary legislation was the Council meeting on 19 December 2001, or 9 January 2002 if extended by resolution.

IV. Further business for the Council meeting on 12 December 2001

(a) Government motion

Proposed resolution to be moved by the Secretary for Constitutional Affairs under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Electoral Procedure (Chief Executive Election) Regulation

(Wording of the motion issued vide LC Paper No. CB(3) 229/01-02 dated 5 December 2001.)

17. The Chairman said that the Secretary for Constitutional Affairs would move a motion to amend the Electoral Procedure (Chief Executive Election) Regulation which had been scrutinised by the Subcommittee on subsidiary legislation relating to the Chief Executive election.

18. The Chairman further said that the Subcommittee provided a written report on its deliberation of this Regulation and the Maximum Amount of Election Expenses (Chief Executive Election) Regulation at the last meeting of the House Committee on 30 November 2001.

Action

(b) **Members' motions**

Proposed resolution to be moved by Hon CHEUNG Man-kwong under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Maximum Amount of Election Expenses (Chief Executive Election) Regulation

(Wording of the motion issued vide LC Paper No. CB(3) 219/01-02 dated 3 December 2001.)

19. The Chairman said that Mr CHEUNG Man-kwong would move a motion to amend the Maximum Amount of Election Expenses (Chief Executive Election) Regulation which had also been scrutinised by the Subcommittee on subsidiary legislation relating to the Chief Executive election, as mentioned in paragraph 18 above.

V. **Business for the Council meeting on 19 December 2001**

(a) **Questions**

(LC Paper No. CB(3) 221/01-02)

20. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 19 December 2001.

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

(i) **Adaptation of Laws Bill 2001**

(ii) **Copyright (Amendment) Bill 2001**

21. The Chairman said that these two Bills would be introduced into the Council on 19 December 2001, and considered by the House Committee on 4 January 2002.

(c) **Government motions**

(i) **Proposed resolution to be moved by the Secretary for Health and Welfare under the Pharmacy and Poisons Ordinance relating to:**

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

- **the Poisons List (Amendment) (No. 4) Regulation 2001.**

(Wording of the motion issued vide LC Paper No. CB(3) 220/01-02 dated 3 December 2001.)

(LC Paper No. LS 34/01-02)

Action

22. The Legal Adviser explained that the two Amendment Regulations sought to add certain substances to Part I of the Poisons List, and/or the First and Third Schedules to the Pharmacy and Poisons Regulations so that pharmaceutical products containing any of these substances must be sold in pharmacies under the supervision of registered pharmacists and in their presence. The Legal Adviser added that the amendments were proposed by the Pharmacy and Poisons Board, and that the drafting and legal aspects of the two Regulations were in order.

23. Miss Margaret NG asked whether the Administration had provided information about those substances and the reasons for tighter control over the sale of pharmaceutical products which contained those substances.

24. The Legal Adviser responded that according to the speech to be delivered by the Secretary for Health and Welfare when moving the proposed resolution on the two Regulations at the Council meeting on 19 December 2001, the Pharmacy and Poisons Board considered the proposed amendments necessary in view of the potency, toxicity and potential side-effects of the substances concerned.

25. Miss Margaret NG said that she had no disagreement with the Administration putting forward proposals to impose tighter control over the sale of certain pharmaceutical products. However, she was of the view that the Administration should provide more detailed information to facilitate the Council to consider such proposals. Dr LO Wing-lok concurred with Miss NG.

26. The Chairman said that the Pharmacy and Poisons Regulations and the Poisons List Regulation were updated from time to time after consultation with the trade. To her knowledge, the trade had so far not raised any dissenting views on the two Amendment Regulations. The Chairman further said that the Administration should be requested to provide additional information on the substances concerned under the current proposals, and more detailed information when making similar proposals in future. Members agreed.

(ii) **Three proposed resolutions to be moved by the Secretary for Security under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance relating to:**

- **the Mutual Legal Assistance in Criminal Matters (Canada) Order;**
- **the Mutual Legal Assistance in Criminal Matters (Philippines) Order; and**

Action

- **the Mutual Legal Assistance in Criminal Matters (Portugal) Order.**

(Wording of the motion issued vide LC Paper No. CB(3) 230/01-02 dated 5 December 2001.)

27. The Chairman said that the Subcommittee formed to study the three Orders had provided a written report to the House Committee on 23 November 2001.

(d) **Members' motions**

(i) **Motion on "Strengthening co-operation with Guangdong in developing the logistics industry"**

28. The Chairman said that the above motion would be moved by Mr HUI Cheung-ching and the draft wording of the motion had been issued to Members.

(ii) **Motion on "Opposing unfair competition"**

(Wording of the motion issued vide LC Paper. CB(3) 232/01-02 dated 6 December 2001.)

29. The Chairman said that the above motion would be moved by Mr LEUNG Yiu-chung and the wording of the motion had been issued to Members.

30. The Chairman reminded Members that the deadline for giving notice of amendments, if any, was 12 December 2001.

VI. Report of Bills Committee and subcommittee on subsidiary legislation

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

(LC Paper No. CB(2) 592/01-02)

(Director of Administration's letter dated 5 December 2001 on proposed priority in the scrutiny of bills by Members)

31. The Chairman said that there were 13 Bills Committees and five subcommittees in action as well as 10 Bills Committees on the waiting list.

32. The Chairman sought Members' views on the Director of Administration's request made in his letter dated 5 December 2001 that priority be given to the scrutiny of the Import and Export (Electronic Transactions) Bill 2001. The Chairman pointed out that a Bills Committee had been formed to study the Bill which was on the waiting list. Members agreed to the request.

Action

33. The Chairman added that as there were two vacant slots, the Bills Committee on the Import and Export (Electronic Transactions) Bill 2001 and the Bills Committee on the Human Organ Transplant (Amendment) Bill 2001 on the waiting list could start work immediately.

(b) Report of the Bills Committee on Kowloon-Canton Railway Corporation (Amendment) Bill 2001
(LC Paper No. CB(1) 508/01-02)

34. Ms Miriam LAU, Chairman of the Bills Committee, said that the Bill sought to separate the duties and functions of the Chairman and the chief executive of the Kowloon-Canton Railway Corporation (KCRC) by creating the office of the Chief Executive Officer (CEO) in KCRC.

35. Ms Miriam LAU further said that the Bills Committee had examined whether and how the proposed separation of the functions and duties of the Chairman and the CEO would enhance effectiveness, transparency and accountability. Ms LAU added that the Bills Committee had also reviewed the monitoring role of the Secretary for Transport and Secretary for the Treasury who also sat on the KCRC Board.

36. Ms Miriam LAU informed Members that the Administration had accepted the Bills Committee's suggestion to include a provision in the Bill requiring the Chairman and the CEO to attend meetings of committees and subcommittees of the Legislative Council (LegCo) upon request to enhance accountability.

37. Ms Miriam LAU further informed Members that Mr Andrew CHENG or another Member belonging to the Democratic Party were considering moving CSAs to the Bill concerning the terms of appointment of the CEO. Ms LAU added that the Bills Committee supported the resumption of the Second Reading debate on 19 December 2001.

38. Mr Andrew CHENG said that he would move CSAs to require KCRC to consult LegCo before determining the terms and conditions of appointment of the CEO, and to publish the CEO's remuneration in its annual reports.

39. Mr Andrew CHENG further said that it was the Administration's intention that the Council should resume the Second Reading debate on the Bill as early as possible. However, as the Bills Committee had identified a number of issues which needed further study, it might hold another meeting to discuss these outstanding issues.

40. Ms Miriam LAU said that the Administration had already provided supplementary information relating to the determination of remuneration when appointing the Chairman and chief executive of KCRC in 1996. As regards the outstanding issues referred to by Mr Andrew CHENG, they should more

Action

appropriately be followed up by the relevant Panel, as they were outside the scope of the Bill.

41. The Chairman said that the Administration should not impose a deadline on when LegCo should complete scrutiny of a particular bill. The Chairman further said that it was not unusual for Members to have different views on a bill, but issues outside the scope of the bill should be followed up in other appropriate forums. She advised that in deciding whether a bill was ready for resumption of the Second Reading debate, Members should consider whether the Bills Committee concerned had examined all the issues and proposals within the scope of the bill.

42. Ms Miriam LAU said that the Bills Committee had studied all the issues and proposals within the scope of the Bill and recommended the resumption of the Second Reading debate on the Bill on 19 December 2001.

43. Members raised no objection to the resumption of the Second Reading debate on the Bill on 19 December 2001.

44. The Chairman reminded Members that the deadline for notice of CASs was Monday, 10 December 2001.

(c) Report of the Bills Committee on Companies (Corporate Rescue) Bill

45. Miss Margaret NG, Chairman of the Bills Committee, reported that the Bill Committee had decided that the scrutiny of the Bill should be held in abeyance to allow time for the Administration to conduct consultation on, and work out the details of, a new proposal.

46. Miss Margaret NG explained that the Bill aimed to introduce a statutory corporate rescue procedure in Hong Kong to assist companies in financial difficulty to turn around. The Bills Committee had held five meetings to discuss the Bill and listened to the views of deputations. Miss NG said that the Bills Committee supported the concept of corporate rescue, but had doubts about the proposed requirement that before the commencement of the corporate rescue procedure, either all outstanding wages and liabilities of employees had to be paid, or sufficient funds must be provided for in a trust account for the purpose. Members were concerned that as there was no ceiling for such amounts, it was unlikely that a company in financial difficulty would have sufficient money to fulfil the requirement. This proposed requirement might therefore create a substantial obstacle to the commencement of corporate rescue procedure, thus defeating the purpose of the Bill.

47. Miss Margaret NG further said that to address members' concern, the Administration had proposed that the sum payable to each employee would be

Action

capped, and it would consult the relevant parties on the new proposal. As the Administration expected that the consultation would take about three months, the Bills Committee decided that the scrutiny of the Bill should be held in abeyance, so that its slot could be taken up by a Bills Committee on the waiting list.

48. Mr Kenneth TING said that it was proposed in the Bill that directors or responsible persons of companies would be personally liable for insolvent trading. In his view, this provision would create practical difficulties and discourage people from being directors and responsible persons of companies.

(d) Fourth and final report of the Subcommittee on subsidiary legislation relating to Chief Executive election
(LC Paper No. CB(2) 588/01-02)

49. Mr IP Kwok-him, Chairman of the Subcommittee, reported that the Subcommittee had completed scrutiny of the Chief Executive Election (Election Petition) Rules, and the deliberations of the Subcommittee were detailed in the report. Mr IP explained that the Rules set out the procedures for the lodging, trial, withdrawal and costs of election petitions questioning the election of the Chief Executive (CE) as well as the ancillary matters relating to such election petitions.

50. Mr IP Kwok-him drew Members' attention that under section 15(1)(b) and (c) of the Rules, if the successful candidate could not assume the office of CE "due to his death or otherwise", an election petition would be regarded as having been withdrawn. The Subcommittee considered that it might not be appropriate to specify in the Rules the reasons why the returned candidate could not assume office or the grounds for CE to cease to hold the office of CE, as these were not specified in the relevant sections in the principal ordinance. Mr IP informed Members that the Administration had agreed to move an amendment to delete the words "due to his death or otherwise" in section 15(1)(b) and (c). Mr IP further informed Members that the Subcommittee supported the Rules and the Administration's proposed amendment.

51. Mr IP Kwok-him reminded Members that the deadline for giving notice of amendments to the Rules was 12 December 2001.

52. Mr IP Kwok-him added that the Subcommittee had completed the scrutiny of all items of subsidiary legislation relating to the CE election.

VII. Proposal to invite the Chief Executive to brief the Council on return from his coming duty visit to Beijing and Financial Secretary's remarks made at the meeting of the Panel on Financial Affairs on 3 December 2001
(Hon Emily LAU's letter dated 4 December 2001 to the Chairman of the House Committee)

Action

53. Referring to her letter, Ms Emily LAU said that it was reported in the press that CE would make a duty visit to Beijing in mid-December. She proposed that upon his return, CE should be invited to brief LegCo on his duty visit and answer Members' questions.

54. Ms Emily LAU further said that the Financial Secretary (FS), Mr Antony LEUNG Kam-chung, had attended a meeting of the Panel on Financial Affairs (FA Panel) on 3 December 2001 to brief Members on his recent visit to Beijing. She was surprised that FS had said at the meeting that he did not find it necessary to brief LegCo on every visit or to account for anything, and that he had already provided all information about his visit to Beijing to the public through the media. Ms LAU pointed out that according to Article 64 of the Basic Law, the Government of the Hong Kong Special Administrative Region (HKSAR) was accountable to LegCo and should answer questions raised by LegCo Members. The fact that FS had answered a few questions from the media was no substitute for briefing LegCo Members.

55. Mr TSANG Yok-sing asked the Legal Adviser whether CE had the responsibility under the Basic Law to brief LegCo on his duty visits to Beijing. He pointed out that as Article 43 of the Basic Law only stated that CE was the head of the HKSAR and accountable to the Central People's Government (CPG) and the HKSAR, it appeared that the Basic Law did not contain any provisions that CE was accountable to LegCo. Mr TSANG expressed doubts whether it was appropriate for CE to brief LegCo on his duty visits to Beijing.

56. The Legal Adviser responded that Article 43 was consistent with Article 64 of the Basic Law. He pointed out that Article 60 of the Basic Law stated that CE was the head of the HKSAR Government, while Article 64 stated that the HKSAR Government was accountable to LegCo. He further pointed out that, as could be expected to find in constitutional documents, Articles 43 and 60 only set out the general principles, and there were no provisions in the Basic Law which provided in detail how that duty to be accountable as provided in Article 43 should be discharged. The Legal Adviser further said that answering questions from LegCo Members was generally accepted as one form of holding the HKSAR Government accountable to LegCo, and that requesting CE to brief LegCo Members on his duty visits to Beijing had so far not posed any constitutional problem.

57. Mr Andrew WONG agreed with the Legal Adviser that it was clear from Article 60, when read in conjunction with Article 64 of the Basic Law, that CE as the head of the HKSAR Government was accountable to LegCo. As regards the detailed arrangements for implementing Article 64, Mr WONG said that these could be worked out gradually.

Action

58. Dr YEUNG Sum said that the Basic Law clearly stipulated that the HKSAR Government was accountable to LegCo. As CE was the head of the HKSAR Government, there should be no question that he was accountable to LegCo. Dr YEUNG was of the view that as CE's coming visit to Beijing was part of his duty as head of the HKSAR Government, it was appropriate to invite CE to brief Members on the visit. He added that before 1 July 1997, it was the practice for the Governor of Hong Kong to brief the Council on his overseas duty visits.

59. Mr CHAN Kam-lam said that although not explicitly stated in the Basic Law, there was no doubt that CE, as the head of the HKSAR Government, should be accountable to LegCo and to the people of the HKSAR. He was of the view that what needed to be considered was the detailed arrangements for CE to be accountable to LegCo. In this connection, he did not consider it necessary for CE to brief Members on each of his duty visits to the Mainland or overseas. He suggested that Members could raise questions at Council meetings if they were interested in a particular duty visit made by CE. Mr CHAN also pointed out that before 1 July 1997, it was not the practice for a Governor to brief LegCo every time he returned from an overseas duty visit.

60. Mr James TIEN said that whilst he agreed that CE should brief Members on the important achievements of official visits, he had reservations about inviting CE to brief LegCo on his duty visits to Beijing. Mr TIEN added that Members could raise questions during the CE's Question and Answer Sessions.

61. Ms Cyd HO pointed out that as only three CE's Question and Answer Sessions were held in a legislative year, Members might not be able to make use of such Sessions to raise timely questions on CE's duty visits.

62. The Chairman said that the question of whether CE and key government officials should brief LegCo on their duty visits was not a legal one, but a question pertaining to the relationship and communication between the Executive Authorities and the Legislature. The Chairman further said that LegCo Members had the responsibility to raise questions on the work of the Executive Authorities on behalf of the people of Hong Kong. She pointed out that the House Committee had previously agreed that requests for inviting CE, CS, FS and Secretary for Justice to brief Members on their official visits to the Mainland or overseas should be considered on a case-by-case basis. The Chairman added that it was for Members to decide whether the present case before them, i.e. Ms LAU's proposal of inviting CE to brief the Council after his coming duty visit to Beijing, should be supported.

63. Dr YEUNG Sum and Ms Cyd HO expressed support for Ms Emily LAU's proposal. They considered that it was an appropriate time for CE to brief Members on return from his duty visit to Beijing in mid December 2001, in view of the coming election of the second term CE. Dr YEUNG added

Action

that as CE's term was coming to an end, it was likely that there would be important issues to be discussed between CE and the CPG leaders during the visit.

64. Mr TSANG Yok-sing said that according to Ms LAU's letter, her request was only based on media reports that CE would pay a duty visit to Beijing, and she did not give any reasons why CE should be invited to brief LegCo on this particular visit. Mr TSANG further said that in the absence of any concrete justifications for the request, Members belonging to the Democratic Alliance for the Betterment of Hong Kong could not support Ms LAU's proposal. Mr TSANG added that he had the impression that what Ms LAU actually sought was to request CE to brief Members every time he returned from a duty visit to the Mainland or overseas.

65. Ms Emily LAU clarified that although she hoped that Members would agree to request CE to brief the Council every time he returned from a duty visit to the Mainland or overseas, she accepted the House Committee's earlier agreement that such requests should be considered on a case-by-case basis. She said that her request this time was to invite CE to brief Members on return from his coming duty visit to Beijing in mid-December 2001.

66. Regarding FS's remarks made at the FA Panel meeting on 3 December 2001, Mr CHAN Kam-lam said that he was present at the meeting, but he and some other Members did not find Mr LEUNG's remarks shocking or perplexing. Mr CHAN further said that FS had provided information on his duty visit to Beijing and had also answered Members' questions. Mr CHAN did not consider it necessary to convey Ms LAU's views on FS's remarks to CS.

67. Ms Cyd HO said that she could not accept FS's remarks that it was not necessary for him to give an account to LegCo because he had already briefed the media. She pointed out that it was often difficult to obtain from the Administration information relating to duty visits made by CE and other key government officials to the Mainland or overseas. She suggested that the Administration should prepare information papers or LegCo Briefs on important official visits for Members' information and for facilitating follow-up actions by the relevant committees.

68. Ms Audrey EU said that she did not consider it necessary for key government officials to brief Members upon return from every duty visit. However, she agreed with Ms Cyd HO that the Administration should provide information papers or LegCo Briefs on important duty visits or subject matters. She added that this would also help foster a good relationship between the Executive Authorities and the Legislature.

69. Mr LEUNG Yiu-chung said that he was concerned that other key government officials might share FS's thinking that they only needed to brief

Action

the media, and not LegCo, on important matters. He added that briefings for the media could not replace briefings for LegCo as they served different purposes.

70. Mr Martin LEE said that senior government officials might find it easier to answer questions from the media than those from Members. He further said that the Administration should brief the Council on important matters or issues before briefing the media.

71. Mr James TIEN said that he had attended the FA Panel meeting on 3 December 2001. He pointed out that FS had answered Members' questions on issues of concern, such as the business environment and 24-hour operation at boundary control points. Mr TIEN added that FS's remarks might however give the impression that it was not necessary for him to give a detailed account on his visit to Beijing to Members since he had already briefed the media. Mr TIEN further said that he supported the current arrangement of inviting FS to brief Members on important subject matters and duty visits.

72. Mr Ambrose LAU, Chairman of the FA Panel, said that FS had always been willing to attend meetings of the FA Panel to talk about important issues or subject matters, and that he wished to clarify what had actually happened at the Panel meeting on 3 December 2001 so as to avoid any misunderstanding. He informed Members that in view of time constraint, he had asked FS whether he had anything to add to the information papers already provided to the Panel, and FS had responded that he had nothing to add. Mr LAU further said that at the meeting, FS had answered all questions raised by Members concerning his duty visit to Beijing.

73. The Chairman said that FS had always been willing to attend meetings with Members to discuss important issues and subject matters. However, she agreed that FS's remarks made at the meeting of the FA Panel on 3 December 2001 gave the impression that he did not consider it necessary to give a full account on his visit to Beijing to Members, because he had already briefed the media. The Chairman said that senior government officials had to understand that Members had the responsibility to ask questions on the work of the Government on behalf of the people of Hong Kong. Briefing the media was no substitute for briefing the Council because it was important for Members to have two-way communication with the Administration i.e. Members should have the opportunity to raise questions and views, and the Administration should respond to the questions and views.

74. Mr Fred LI suggested that it might be more appropriate for the Chairman of the House Committee to write directly to FS instead of conveying Members' views to CS. He further said that on important issues or matters, senior government officials should brief LegCo prior to briefing the media, or at least at the same time.

Action

75. Ms Emily LAU said that she did not agree with Mr Fred LI's suggestion that the Chairman should write to FS on the matter. She proposed that the Chairman of the House Committee should convey Members' views to CS who represented all government officials. Mr Fred LI said that he had no strong views on Ms LAU's proposal.

76. Regarding Ms Emily LAU's proposal that CE should be invited to brief Members on return from his coming duty visit to Beijing, the Chairman said that she would put the proposal to vote. The result of the vote was 14 Members voted in favour of the proposal and 16 Members voted against the proposal. The Chairman said that the House Committee would not pursue Ms LAU's proposal.

77. Regarding FS's remarks made at the meeting of the FA Panel on 3 December 2001, the Chairman proposed and Members agreed that she would convey the following views and points to CS:

- (a) key government officials had to understand that Members would take the initiative to invite them to brief the Council on important issues and subject matters;
- (b) briefing the media was no substitute for briefing the Council; during briefings for the Council, Members would have the opportunity to put questions to the Administration which enabled Members and the public to better understand the issues and subject matters concerned;
- (c) information provided to the media should be provided at the same time, if not earlier, to Members; and
- (d) LegCo Briefs should be prepared after important duty visits to the Mainland or overseas by senior government officials to inform Members of the details of such visits and also to facilitate follow-up work by the relevant LegCo committees.

VIII. Any other business

78. There being no further business, the meeting ended at 5:15 pm.