

立法會
Legislative Council

LC Paper No. CB(2) 1998/01-02

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 23rd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 17 May 2002**

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
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Dr Hon LUI Ming-wah, JP
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 Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
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 Miriam LAU Kin-ye, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP

Hon Andrew CHENG Kar-foo
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
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 :

Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon Andrew WONG Wang-fat, JP
Hon LAU Wong-fat, GBS, JP
Hon CHOY So-yuk
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, 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 1

Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Kitty CHENG	Assistant Legal Adviser 5
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

Action

I. Confirmation of the minutes of the 22nd meeting held on 10 May 2002
(LC Paper No. CB(2) 1912/01-02)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman informed Members that the meeting with CS on 13 May 2002 was cancelled as CS was taken ill on that day.

III. Business arising from previous Council meetings

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

(i) Adaptation of Laws (Miscellaneous Provisions) Bill 2002
(LC Paper No. LS 88/01-02)

3. The Legal Adviser said that the Bill sought to adapt certain Ordinances and subsidiary legislation to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China. The proposed amendments were for making changes in terminology and did not involve specific policy issues. The Legal Adviser pointed out that the amendments were along the same lines as amendments in other Adaptation of Laws Bills which had been passed by the Legislative Council (LegCo).

Action

4. The Legal Adviser further said that the legal and drafting aspects were in order, and subject to Members' views, the Bill was ready for resumption of Second Reading debate. Members raised no objection to the resumption of the Second Reading debate on the Bill.

(ii) Telecommunications (Amendment) Bill 2002
(*LC Paper No. LS 90/01-02*)

5. The Legal Adviser explained that the Bill proposed to confer on the Telecommunications Authority (TA) a specific regulatory power to regulate any change or proposed change in the ownership or control over a carrier licensee which, in the opinion of TA, had, or was likely to have, anti-competitive effect. A number of procedural safeguards were also proposed in the Bill to ensure the fair exercise of the proposed statutory power. The Legal Adviser further explained that non-compliance with the provisions of the Bill would render a carrier licensee liable to sanctions, including financial penalties as well as suspension or cancellation of licence.

6. The Legal Adviser informed Members that according to the LegCo Brief on the Bill, the public and the telecommunications industry had been consulted. The Legal Adviser added that the Panel on Information Technology and Broadcasting (ITB Panel) was also consulted on the legislative proposals on 28 May 2001 and 13 May 2002. Some Panel members were gravely concerned about the wide scope of powers proposed to be conferred on TA, and asked whether the powers to regulate merger and acquisition activities should be vested with an independent body instead. They also stressed the need to consult the industry on the guidelines to be issued by TA.

7. Mr SIN Chung-kai, Chairman of ITB Panel, said that as the Bill involved a number of controversial issues, the Panel in general considered that a Bills Committee should be formed to study the Bill.

8. The Chairman said that the New World PCS Limited, SmarTone and SUNDAY had written to her requesting that they be given opportunities to make representations to Members on the proposed amendments in the Bill.

9. The Chairman proposed that a Bills Committee be set up to study the Bill in detail. Members agreed. The following Members agreed to join : Mr Fred LI, Mr SIN Chung-kai, Mr Howard YOUNG and Ms Emily LAU.

10. The Chairman added that the Bills Committee would be placed on the waiting list until a vacant slot was available.

Action

(b) Legal Service Division report on subsidiary legislation gazetted on 10 May 2002

(LC Paper No. LS 96/01-02)

11. The Legal Adviser said that only one item of subsidiary legislation, the Banking Ordinance (Amendment of Seventh Schedule) Notice 2002, was gazetted on 10 May 2002 which required tabling in Council. The Legal Adviser explained that the Notice sought to amend the Seventh Schedule to the Banking Ordinance to relax some of the existing market entry criteria. It also increased the minimum paid-up share capital requirement from HK\$150 million to HK\$300 million for a company, whether incorporated in or outside Hong Kong, seeking authorization to carry on banking business in Hong Kong, and in this respect a two-year grace period had been provided for existing banks to meet the requirement.

12. The Legal Adviser further said that according to the Administration, the banking sector had been consulted and it was in support of the proposal. The Legal Adviser added that the legal and drafting aspects of the Notice were in order.

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

14. The Chairman reminded Members that the deadline for amending this item of subsidiary legislation was 12 June 2002, or 3 July 2002 if extended by resolution.

15. The Legal Adviser informed Members that the other Legal Notice gazetted on 10 May 2002 which did not require tabling in Council was the United Nations Sanctions (Sierra Leone) (Prohibition Against Importation of Diamonds) Regulation 2002. The Legal Adviser explained that this Regulation was made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council. The Regulation gave effect to a decision of the Security Council of the United Nations in Resolution 1385 of 19 December 2001 on prohibition against importation of rough diamonds from Sierra Leone. The Legal Adviser added that the Regulation would cease to have effect after 4 December 2002.

16. Mr LAU Ping-cheung enquired about the reasons for the Security Council of the United Nations in making the Resolution. The Legal Adviser said that the Legal Service Division did not have the background information for effecting the sanction. It would obtain more information from the Administration and provide a further report to the House Committee.

IV. Further business for the Council meeting on 22 May 2002

(a) Questions

(LC Paper No. CB(3) 616/01-02)

17. The Chairman drew Members' attention to the new oral questions to be raised by Mr LEUNG Fu-wah and Miss CHOY So-yuk.

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

Gambling (Amendment) Bill 2000

18. The Chairman said that the Bills Committee concerned provided a report to the House Committee on 10 May 2002, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

V. Business for the Council meeting on 29 May 2002

(a) Questions

(LC Paper No. CB(3) 617/01-02)

19. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 29 May 2002.

(b) Bills - First and Second Readings

Evidence (Miscellaneous Amendments) Bill 2002

20. The Chairman said that the Bill would be introduced into the Council on 29 May 2002 and considered by the House Committee on 31 May 2002.

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

Marine Fish Culture (Amendment) Bill 2002

21. The Chairman said that Members considered a further report prepared by the Legal Service Division at the last meeting, and did not raise objection to the resumption of the Second Reading debate on the Bill.

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(d) **Government motion**

Motion to be moved by the Secretary for Constitutional Affairs

(Wording of the motion issued vide LC Paper No. CB(3) 612/01-02 dated 13 May 2002.)

22. The Chairman said that the Secretary for Constitutional Affairs (SCA) had given notice to move a motion on the proposed accountability system for principal officials for debate at the Council meeting on 29 May 2002. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motion was Wednesday, 22 May 2002.

23. Ms Emily LAU said that given the importance of the subject matter, each Member should be allowed to speak for not more than 15 minutes.

24. The Chairman proposed that the House Committee would recommend to the President that the speaking time limit of 15 minutes for each Member should apply. Members agreed.

(e) **Members' motions**

(i) **Motion on "Promoting producer and professional services"**

(Wording of the motion issued vide LC Paper No. CB(3) 630/01-02 dated 16 May 2002.)

25. The Chairman said that above motion would be moved by Mr Ambrose LAU Hon-chuen and the wording of the motion had been issued to Members.

(ii) **Motion on "The 4 June incident"**

(Wording of the motion issued vide LC Paper No. CB(3) 625/01-02 dated 14 May 2002.)

26. The Chairman said that above motion would be moved by Mr SZETO Wah and the wording of the motion had been issued to Members.

27. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 22 May 2002.

28. Mr LAU Ping-cheung asked about the arrangement if the business to be transacted at the Council meeting on 29 May 2002 could not be finished on that day, as the debate on SCA's motion would be very long. The Chairman advised that in line with past practice, if the President was of the opinion that it was unlikely that the business on the Agenda of a Council meeting could be finished by about midnight on the day of the meeting, she would suspend the meeting and order that the meeting resume the following day for the continuation of business.

Action

29. Ms Emily LAU said that committees should avoid scheduling meetings for 30 May 2002. Mr IP Kwok-him sought clarification on whether the Council meeting would resume in the morning or in the afternoon on 30 May 2002, if the business on the Agenda could not be finished on 29 May 2002. Secretary General said that he would consult the President and let Members know as soon as possible.

VI. Report of Bills Committee and subcommittee on subsidiary legislation

(a) Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 1933/01-02)

(Director of Administration's letter dated 16 May 2002 on proposed priority in the scrutiny of bills by Members)

30. The Chairman said that there were 14 Bills Committees and five Subcommittees in action, as well as 14 Bills Committees, including the Bills Committee on the Telecommunications (Amendment) Bill 2002 formed under agenda item 3(a)(ii) above, on the waiting list.

31. The Chairman said that in his letter dated 16 May 2002, the Director of Administration (D of Adm) had requested that priority be given to the scrutiny of the Mandatory Provident Fund Schemes (Amendment) Bill 2002. Members agreed to D of Adm's request. The Chairman added that the Bills Committee on the Bill could commence work immediately as there was a vacant slot.

(b) Report of the Bills Committee on Boilers and Pressure Vessels (Amendment) Bill 2001

(LC Paper No. CB(2) 1897/01-02)

32. Referring to the report, the Chairman said that the Bills Committee had completed scrutiny of the Bill, and the deliberations of the Bills Committee were detailed in the report.

33. The Chairman further said that the Administration had accepted the Bills Committee's view to move a number of Committee Stage amendments (CSAs) in response to concerns raised by the Bills Committee. The Chairman added that the Bills Committee supported the resumption of the Second Reading debate on the Bill.

34. Members did not raise objection to the resumption of the Second Reading debate on the Bill. The Chairman reminded Members that the deadline for giving notice of CSAs was Monday, 27 May 2002, as the Administration had proposed that the Second Reading debate on the Bill be resumed on 5 June 2002.

Action

VII. Report of the Panel on Education concerning the motion debate on "Report on Higher Education in Hong Kong" scheduled for the Council meeting on 22 May 2002

(LC Paper No. CB(2) 1960/01-02)

35. Mr YEUNG Yiu-chung, Chairman of the Panel on Education, said that the University Grants Committee (UGC) announced the completion of the Higher Education Review 2002 and released the Review Report on 26 March 2002 for public consultation for two months. Mr YEUNG informed Members that as the Panel had decided that he, as Chairman of the Panel, should sponsor a motion on the Report for debate before the end of the consultation period, he had made an application for a debate slot in his own name, and secured a slot for debate on the Report at the Council meeting on 22 May 2002.

36. Mr YEUNG further said that UGC informed the Panel on 13 May 2002 that the consultation period on the Report would be extended up to 31 July 2002. The Panel had therefore suggested that he should defer his motion debate to 26 June 2002, so that Members could listen to more views before the debate.

37. Dr YEUNG Sum said that Members belonging to the Democratic Party supported the Panel's suggestion.

38. Mr Tommy CHEUNG said that Members belonging to the Liberal Party were also in support of the Panel's suggestion.

39. Dr TANG Siu-tong said that Members belonging to the Hong Kong Progressive Alliance also agreed that the motion debate should be deferred.

40. Ms Emily LAU said that she supported the Panel's suggestion. She further said that it was important that the relevant Panel be allowed sufficient time to thoroughly discuss a consultation paper before a motion debate on the consultation paper took place at a Council meeting.

41. Members agreed to the Panel's suggestion in paragraph 6 of the report.

42. Dr YEUNG Sum asked whether the vacant debate slot on 22 May 2002 could be taken up by Mr SZETO Wah who had secured a slot for debate at the Council meeting on 29 May 2002.

43. The Chairman said that it was unprecedented for a mover of a motion to advance his debate. She further said that the allocation of debate slots was determined by drawing lots under an established mechanism. It was not appropriate for the House Committee to involve itself in the allocation of debate slots, unless in very special circumstances.

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44. Ms Emily LAU and Mr CHAN Kam-lam concurred with the Chairman. Ms LAU also enquired whether there was a need for a mechanism to allocate vacant slot made available by a mover withdrawing his notice of motion before the debate. Secretary General pointed out that unless the notice of withdrawal was given by a mover before the deadline for giving notice of motion, the vacant slot could not be allocated to another Member as the Members would not be able to meet the notice requirement.

VIII. Any other business

45. There being no further business, the meeting ended at 2:55 pm.

Council Business Division 2
Legislative Council Secretariat
22 May 2002