

立法會
Legislative Council

LC Paper No. CB(2) 2979/02-03

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 31st meeting
held in the Legislative Council Chamber
at 3:43 pm on Friday, 27 June 2003**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, 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
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Eric LI Ka-cheung, 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 Bernard CHAN, JP
Hon CHAN Kam-lam, JP
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, GBS, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung, BBS
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-ye, JP

Hon Ambrose LAU Hon-chuen, GBS, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS, JP
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 IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Members absent :

Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Dr Hon YEUNG Sum
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Frederick FUNG Kin-kee

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
Ms Pauline NG	Assistant Secretary General 1

Mr Ray CHAN	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Vivian KAM	Principal Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Assistant Secretary (1)2
Ms Anita SIT	Chief Assistant Secretary (1)6
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Anita HO	Assistant Legal Adviser 2
Miss Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Monna LAI	Assistant Legal Adviser 7
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 30th meeting held on 20 June 2003
(LC Paper No. CB(2) 2626/02-03)

The minutes were confirmed.

II. Matters arising

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

Bills committees holding their work in abeyance

2. The Chairman said that she had advised CS that Members had enquired about the progress of work in respect of the Bills Committees on the Inland Revenue (Amendment) Bill 2000, Companies (Corporate Rescue) Bill and Human Organ Transplant (Amendment) Bill 2001, which had been holding their work in abeyance for a long time. The Chairman further said that the Legislative Council (LegCo) Secretariat would follow up the matter with the Administration.

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) Electronic Transactions (Amendment) Bill 2003
(LC Paper No. LS 126/02-03)

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3. The Legal Adviser explained that at the resumption of the Second Reading debate on the Electronic Transactions Bill, the Administration had undertaken to conduct a review of the Ordinance 18 months after its enactment in the light of operating experience, international e-business development and technological advancement, in order to ensure that Hong Kong had the most up-to-date legal framework for the conduct of e-business.

4. The Legal Adviser further explained that the Bill sought to introduce miscellaneous amendments to the Electronic Transactions Ordinance following public consultation on areas such as whether to give legal recognition to all forms of electronic signatures in transactions not involving the Government, and whether to change the scheme of recognition of certification authorities.

5. The Legal Adviser said that the Panel on Information Technology and Broadcasting had been consulted on the proposals in the Bill on 11 March 2002 and 7 November 2002.

6. The Legal Adviser further said that as the Bill introduced a number of amendments which were likely to have significant impact on electronic transactions and the implementation of the Ordinance, Members might wish to form a Bills Committee to study the Bill in detail.

7. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr Kenneth TING, Mr HUI Cheung-ching, Mr CHAN Kam-lam, Mr SIN Chung-kai and Ms Audrey EU.

(ii) Import and Export (Facilitation) Bill 2003
(*LC Paper No. LS 132/02-03*)

8. The Legal Adviser said that the Bill sought to amend three ordinances and seven regulations to provide for the relaxation of import, export and transportation control on certain articles.

9. The Legal Adviser further said that the Panel on Commerce and Industry had been consulted on the Administration's proposal on 14 April 2003 and expressed general support. The Legal Adviser pointed out that some members did not support relaxing the licensing control on strategic commodities as well as firearms and ammunition. However, such licensing control was not intended to be covered by the Bill.

10. The Legal Adviser said that the Legal Service Division was still scrutinizing the Bill and would make a further report to the House Committee.

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11. Mr HUI Cheung-ching said that he had consulted the import and export trades, and they did not have any problems with the Bill.

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

(iii) Waste Disposal (Amendment) Bill 2003
(*LC Paper No. LS 139/02-03*)

13. The Legal Adviser explained that the Bill sought to control the management of clinical waste and disposal of imported waste, and to incorporate the Basle Ban in the Waste Disposal Ordinance.

14. The Legal Adviser said that the Panel on Environmental Affairs (EA Panel) had been consulted in March 1999 and did not raise objection to the Administration's plan to formalize the Basle Ban. The Legal Adviser further said that the EA Panel and the Panel on Health Services had been consulted on the Clinical Waste Control Scheme and the plan to utilize the Chemical Waste Treatment Centre (CWTC) for treatment of clinical waste at their joint meetings on 20 March 2002 and 23 May 2002. Members of the two Panels had expressed concern about the safe handling of clinical waste, in particular, human tissues and body parts.

15. The Legal Adviser pointed out that according to the LegCo Brief on the Bill, the Administration had consulted various interested parties on the Control Scheme and the treatment of clinical waste by the CWTC. Some green groups and the Kwai Tsing District Council had expressed concern over the proposal.

16. The Chairman proposed that, in view of the wide public concern over the management of clinical waste, a Bills Committee should be formed to study the Bill in detail. Members agreed. The following Members agreed to join : Miss CHOY So-yuk, Dr LAW Chi-kwong and Mr Michael MAK.

(iv) Companies (Amendment) Bill 2003
(*LC Paper No. LS 134/02-03*)

17. The Legal Adviser explained that the Bill proposed to amend provisions in the Companies Ordinance relating to prospectuses, group accounts, overseas companies and incorporation procedures, and shareholders' remedies.

18. The Legal Adviser said that when the Panel on Financial Affairs was briefed on the legislative proposals at its meeting on 7 April 2003, members had raised concerns over a number of issues. The Legal Adviser further said that the Legal Service Division was still scrutinizing the legal and drafting

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aspects of the Bill. In view of Members' concerns and the wide range of interests affected by the Bill, a Bills Committee should be formed to study the Bill in detail.

19. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr Albert HO (as advised by Mr SIN Chung-kai), Mr CHAN Kam-lam, Mrs Sophie LEUNG (as advised by the Chairman), Mr SIN Chung-kai, Mr Henry WU and Ms Audrey EU.

(b) Legal Service Division report on subsidiary legislation gazetted on 20 June 2003 and tabled in Council on 25 June 2003
(LC Paper No. LS 140/02-03)

20. The Legal Adviser said that three items of subsidiary legislation were gazetted on 20 June 2003 and tabled in Council on 25 June 2003.

21. The Legal Adviser explained that the Fixed Penalty (Public Cleanliness Offences) (Amendment) Regulation 2003 amended the forms in the Schedule to the Fixed Penalty (Public Cleanliness Offences) Regulation. The amendments were consequential to the increase in fixed penalty from \$600 to \$1,500 for the scheduled offences, as approved by LegCo on 18 June 2003. The Legal Adviser added that the Regulation had come into operation on 26 June 2003, i.e. the same day on which the increase in fixed penalty took effect.

22. Regarding the Prisons (Hostel) (Amendment) Order 2003, the Legal Adviser said that this Order discontinued the use of the New Life House at Flat 16B of the Senior Staff Quarters in Block F of the Pamela Youde Nethersole Eastern Hospital as a hostel for the purpose of the Prisons Ordinance.

23. Members did not raise any queries on the above two items of subsidiary legislation.

24. As regards the Rules of the High Court (Amendment) Rules 2003, the Legal Adviser said that these Rules were made by the Rules Committee of the High Court under section 54 of the High Court Ordinance in relation to the use and charges for a record of proceedings or a transcript, or a copy of the record or the transcript.

25. The Legal Adviser further said that these Rules had not been referred to the Panel on Administration of Justice and Legal Services (AJLS Panel) for consultation. The Legal Adviser added that these Rules had come into effect on the day on which they were published in the Gazette, i.e. 20 June 2003.

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26. Miss Margaret NG, Chairman of the AJLS Panel, said that she was not aware of the making of the Amendment Rules. As these Rules had not been considered by the AJLS Panel, she suggested that a subcommittee be formed to study them.

27. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join : Miss Margaret NG and Ms Audrey EU.

28. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was the second meeting of LegCo in the next session.

IV. Further business for the Council meeting on 2 July 2003

Government motion

Proposed resolution to be moved by the Secretary for Security under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Fire Services (Fire Hazard Abatement) Regulation

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 796/02-03 dated 24 June 2003.)

29. The Chairman said that the Subcommittee on Fire Services (Fire Hazard Abatement) Regulation had provided a written report at the last House Committee meeting. The Subcommittee supported the Regulation and the technical amendments to be moved by the Secretary for Security at the Council meeting on 2 July 2003.

V. Business for the Council meeting on 9 July 2003

(a) Questions

(LC Paper No. CB(3) 782/02-03)

30. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 9 July 2003.

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

Revenue (No. 3) Bill 2003

31. The Chairman said that the above Bill would be introduced into the Council on 9 July 2003 and considered by the House Committee at the first meeting after the summer break.

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

(i) **Prevention of Child Pornography Bill**

32. The Chairman said that the relevant Bills Committee had reported to the House Committee at the last meeting.

(ii) **Telecommunications (Amendment) Bill 2002**

(iii) **National Security (Legislative Provisions) Bill**

33. The Chairman said that the relevant Bills Committees would report under agenda item VI(a) and (b) below.

(d) **Government motion**

34. The Chairman said that no notice had been received yet.

(e) **Members' motions**

(i) **Motion on "Mainland/Hong Kong Closer Economic Partnership Arrangement"**

(Wording of the motion issued vide LC Paper No. CB(3) 798/02-03 dated 25 June 2003.)

(ii) **Motion on "Accountability system for principal officials"**

(Wording of the motion issued vide LC Paper No. CB(3) 799/02-03 dated 25 June 2003.)

35. The Chairman said that the above motions would be moved by Mr CHAN Kam-lam and Dr YEUNG Sum respectively and the wording of the motions had been issued to Members.

36. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 2 July 2003.

VI. Report of Bills Committee and subcommittee

(a) **Report of the Bills Committee on Telecommunications (Amendment) Bill 2002**

(LC Paper No. CB(1) 2072/02-03)

37. Mr SIN Chung-kai, Chairman of the Bills Committee, informed Members that the Bills Committee had held four meetings since it last reported to the House Committee on 6 June 2003.

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38. Mr SIN said that he had earlier indicated that he would propose a number of Committee Stage amendments (CSAs) to the Bill, and some members of the Bills Committee had expressed support for most of his proposed CSAs.

39. Mr SIN further said that the Administration had discussed his proposed CSAs with the telecommunications industry. Apart from retaining its earlier proposal that the Telecommunications Authority (TA) would assume the regulatory role in merger and acquisition (M&A) activities in the telecommunications industry, the Administration had accepted most of his other suggestions.

40. Mr SIN pointed out that the telecommunications industry had expressed concern that TA would be empowered to review a change in beneficial ownership or voting control of the voting shares of a carrier licensee at a threshold of 15%. To address the concern, the Administration had agreed to amend the 15% threshold to three specific thresholds of more than 15%, more than 30% and more than 50%. The Administration would also specify in the Bill that in examining whether the beneficial ownership or voting control of a person was exceeding the thresholds, TA would take into account the aggregate beneficial ownership or voting control of the person and its associated persons.

41. Mr SIN said that the Administration would also propose other amendments to the Bill, including further reducing the back-stop date from one month to two weeks beyond which TA could not commence any investigation into a completed M&A, and capping the fees charged by TA for processing an application for prior consent to a proposed M&A at \$200,000.

42. Mr SIN further said that the Administration had proposed additional CSAs to require TA to consider the public benefit of an M&A after he had found that the M&A had, or was likely to have, the effect of substantially lessening competition in a telecommunications market. The Administration also proposed to further narrow the scope of persons who could appeal to the Appeal Board to only include the transacting parties to an M&A. The Administration had also clarified that other carrier licensees and interested parties would not be deprived of the opportunity to voice their views and objection, and to seek redress.

43. Mr SIN informed Members that the Consumer Council had expressed support in principle for the additional CSAs proposed by the Administration.

44. Mr SIN said that while some members remained opposed to the Bill, some other members supported the Bill, although they preferred a general competition law. Mr SIN further said that the Bills Committee did not object

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to the additional CSAs proposed by the Administration and the resumption of the Second Reading debate on the Bill on 9 July 2003.

45. Mr SIN added that as the CSAs proposed by the Administration had addressed the various concerns of the telecommunications industry, he would not move any CSAs in his name.

46. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 28 June 2003.

(b) Report of the Bills Committee on National Security (Legislative Provisions) Bill

(LC Paper No. CB(2) 2646/02-03)

47. Mr IP Kwok-him, Chairman of the Bills Committee, said that the Bill sought to amend the Crimes Ordinance, Officials Secrets Ordinance and Societies Ordinance to implement Article 23 of the Basic Law. The Bills Committee had held 29 meetings, including four meetings to hear the views of 110 organizations and individuals. The Bills Committee had also received written submissions from 53 other organizations and individuals.

48. Mr IP further said that in the course of deliberation, some members and the Administration held dissenting views on many aspects of the Bill. The Administration had agreed to introduce amendments to the Bill, after taking into consideration concerns and views of members. Eleven members including Ms Cyd HO, Mr Albert HO, Mr Martin LEE, Miss Margaret NG, Mr James TO, Mr SIN Chung-kai, Mr LAU Kong-wah, Ms Miriam LAU, Ms Emily LAU, Mr Frederick FUNG and Ms Audrey EU, had also proposed amendments to the Bill.

49. Mr IP informed Members that the Administration had just advised the Secretariat around 2:00 pm this afternoon that it would take over the amendments proposed by Ms Miriam LAU and Mr LAU Kong-wah. Mr IP explained that Ms LAU's proposed amendments sought, among other things, to amend new Schedule 2 of the Societies Ordinance to require the Company Registrar to defer taking action to strike off the name of a company proscribed under new section 8A from the register of companies, before the right of the company to take legal action against the proscription had been exhausted. Mr IP further explained that Mr LAU Kong-wah's proposed amendment sought to shorten the time limit for prosecution of the offence of handling seditious publication from three to two years.

50. Ms Miriam LAU said that she would have to first see the wording of the Administration's proposed amendments before deciding whether to withdraw her amendments.

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51. Miss Margaret NG wished to state for the record that she did not agree that the Bills Committee had completed scrutiny of the National Security (Legislative Provisions) Bill. Miss NG pointed out that the Administration had only provided its proposed CSAs for consideration by the Bills Committee at its meetings on 3 and 7 June 2003. Although the Bills Committee agreed to invite further views from the public on the Administration's CSAs, only one week was allowed for written submissions, which was unreasonably short.

52. Miss NG further pointed out that the Administration had been revising its CSAs in the past few weeks, and the Bills Committee only came to know of the Administration's latest proposal of taking over the amendments proposed by Ms Miriam LAU just before the House Committee meeting. Miss NG said that even with the incorporation of Ms LAU's amendments in the Administration's set of CSAs, the question of protection of an innocent third party doing business with a proscribed organization had not been satisfactorily addressed. Given that there were still many outstanding issues that the Bills Committee needed to resolve, Miss NG objected to the resumption of the Second Reading debate on the Bill.

53. Ms Audrey EU said that the Bills Committee had not yet completed its scrutiny work of the Bill and the proposed CSAs. Ms EU further said that the Bills Committee had passed a motion at its meeting on 14 June 2003 that it had completed the clause by clause examination of the Bill. However, she and some other members were unable to attend that meeting due to other commitments, and many issues had not yet been fully deliberated. Ms EU pointed out, for example, that the Bills Committee had not completed discussion on the paper prepared by the Legal Service Division on matters following proscription of an organization under the proposed new section 8A of the Societies Ordinance. Ms EU added that she objected to the resumption of the Second Reading debate on the Bill.

54. The Chairman said that at the last House Committee meeting on 20 June 2003, the majority of Members agreed to the Bills Committee's recommendation that the Administration's proposal to resume the Second Reading debate on the Bill on 9 July 2003 be supported. She reminded Members that the deadline for giving notice of CSAs was Saturday, 28 June 2003.

(c) **Report of the Bills Committee on Betting Duty (Amendment) Bill 2003**

(LC Paper No. CB(2) 2657/02-03)

55. The Chairman, who was also Chairman of the Bills Committee, reported that the Bills Committee had held 12 meetings and met with 82 deputations and individuals at four of these meetings. The Bills Committee

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had completed scrutiny of the Bill and the deliberations were detailed in the report.

56. The Chairman said that Members belonging to the Democratic Party were opposed to authorization of football betting. They considered that authorization of football betting would have adverse social impact on the community and adolescents in particular. They also pointed out that authorization of football betting would not help eradicate illegal football gambling activities and, on the contrary, would lead to an increase in such activities. The Chairman further said that Members belonging to the Liberal Party supported authorization of football betting. They were of the view that gambling-related problems had all along existed, and authorization of football betting should not be taken as the cause. The most important issue was how the Government would implement measures to address such problems. The Chairman added that other members of the Bills Committee had also expressed concern about the impact of authorization of football betting on the community.

57. The Chairman pointed out that in response to members' concern about the adverse impact of authorization of football betting, the Administration had advised the Bills Committee that it would put in place appropriate measures to minimize any negative social impact of authorization of football betting, as detailed in the report of the Bills Committee.

58. The Chairman informed Members that Ms Cyd HO was of the view that authorized football betting should not be conducted before the Administration had introduced measures to address gambling-related problems. Ms HO had given notice to move a CSA to clause 1 of the Bill to the effect that the Bill, if passed, would not come into operation until 1 January 2004. The Chairman further informed Members that Mr Andrew CHENG would also move CSAs to the Bill, including specifying the categories of football matches to be authorized and the closing hours of betting outlets.

59. The Chairman said that at the request of the Bills Committee, the Administration had agreed that the Secretary for Home Affairs would give a number of undertakings, including providing adequate funds for implementing measures to address gambling-related problems, in his speech during the resumption of the Second Reading debate on the Bill. The Administration had also agreed to move a number of CSAs to the Bill.

60. The Chairman pointed out that the Administration intended to resume the Second Reading debate on the Bill on 9 July 2003, i.e. the last Council meeting in the current session. However, as the Bills Committee did not complete its deliberation on the Bill until 24 June 2003, the Administration was not able to give notice for resumption on 23 June 2003, in accordance with Rule 54(5) of the Rules of Procedure.

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61. The Chairman said that the Administration had explained to the Bills Committee that it would be in the public interest to resume the Second Reading debate on the Bill as soon as possible. The Chairman informed Members that the Bills Committee had decided, after taking a vote, that it would recommend to the House Committee that the Administration's request to the President for the requisite notice period to be waived be supported, in order that the Second Reading debate on the Bill could resume on 9 July 2003.

62. Mr SIN Chung-kai said that the scrutiny of the Bill was conducted under a very tight timeframe. He considered that the Bill should not be enacted before the measures to address gambling-related problems, such as counselling services, had been fully implemented. Mr SIN further said that Members belonging to the Democratic Party were opposed to authorization of football betting and the resumption of the Second Reading debate on the Bill on 9 July 2003.

63. Mr Tommy CHEUNG said that Members belonging to the Liberal Party considered that scrutiny of the Bill had been allowed its due process and the Bills Committee had completed its work. Mr CHEUNG pointed out that gambling-related problems had all along existed in Hong Kong and authorization of football betting should not be taken as the cause to these problems. He supported the resumption of the Second Reading debate on the Bill on 9 July 2003.

64. Mr Andrew CHENG reiterated that Members belonging to the Democratic Party held the view that the Bill should only be enacted after the education programmes, counselling service, etc. had proven to be effective and adequate. He did not support the resumption of the Second Reading debate on the Bill on 9 July 2003.

65. The Chairman asked whether Members agreed to the Bills Committee's recommendation that the Administration's request to the President for the requisite notice period to be waived be supported. Members agreed.

66. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 28 June 2003.

(d) Report of the Subcommittee on subsidiary legislation relating to Village Representative elections

67. Mr Andrew WONG, Chairman of the Subcommittee, informed Members that under the Village Representative (Election Petition) Rules, the Director of Home Affairs (DHA) was required, after receiving a copy of an election petition questioning a Village Representative (VR) election, to

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display it on a notice board at the appropriate District Office (DO). In this connection, Heung Yee Kuk (HYK) had made a submission to the Subcommittee. HYK suggested that as the result of an election petition regarding a VR election might affect the Rural Committee (RC) and the village concerned, section 5(4) of the Rules should be amended to require DHA, after receiving a copy of the election petition, to display it at a conspicuous spot in the RC and village office concerned, in addition to displaying it on a notice board at the appropriate DO. HYK had also suggested that if there was no village office in the village concerned, DHA should display the election petition on a notice board in the village.

68. Mr Andrew WONG said that members of the Subcommittee were, in general, supportive of HYK's suggestions. The Administration had agreed to move a motion, at the Council meeting on 9 July 2003, to amend the Rules to require DHA to display a copy of the election petition on a notice board of the RC concerned, or at a conspicuous spot on or near the outer door of the office of the RC concerned. Mr WONG added that the Subcommittee considered that administrative arrangements should be made for a copy of the election petition to be displayed at the village office concerned, and it was not necessary to specify the requirement in the Rules.

69. Mr Andrew WONG further said that under the Village Representative Election Ordinance, an election petition questioning an election could be lodged by five or more electors entitled to vote at the election. Mr WONG pointed out that a Subcommittee member considered such a requirement unreasonable because in some villages, the total number of registered voters could be very small, or even less than five. Such a requirement would deprive the right of the electors in these villages to lodge election petitions.

70. Mr Andrew WONG added that under the Ordinance, a petitioner was required to give security of not exceeding \$20,000. Some Subcommittee members considered that the amount was set at too high a level, and could not be afforded by most villagers.

71. Mr Andrew WONG said that as the issues raised by Subcommittee members in paragraphs 69 and 70 above involved amendments to the principal Ordinance, it would not be possible to propose any changes to the existing arrangements at the present stage. Mr WONG added that at the request of the Subcommittee, the Administration had undertaken to examine these issues in the review to be conducted after the 2003 VR elections.

72. Mr WONG said that a written report would be provided to Members in the following week.

73. The Chairman reminded Members that the deadline for giving notice of amendments was Wednesday, 2 July 2003.

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(e) **Second report of the Subcommittee on subsidiary legislation relating to District Councils election gazetted on 16 May 2003**
(LC Paper No. CB(2) 2650/02-03)

74. Mr IP kwok-him, Chairman of the Subcommittee, said that the Subcommittee's deliberations on the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2003 were set out in the report. Mr IP further said that the Administration would propose changes to the voting counting arrangements in the Amendment Regulation to address members' concern about protection of secrecy of the votes cast. Under the modified proposal on voting counting arrangements, where a polling station had less than 200 registered electors, the ballot papers cast at the polling station would be delivered to another polling station within the same constituency for counting, and that the aggregate number of registered electors of the polling stations concerned should be at least 200. Mr IP added that the majority of the members of the Subcommittee found the modified proposal acceptable.

75. Mr Andrew WONG said that he did not support the Administration's original proposal or the modified proposal on vote counting arrangements. He was strongly of the view that ballot papers from two or more polling stations within a constituency must be mixed before counting, irrespective of the number of registered electors. He considered that such an important principle should not be compromised for the efficiency of the vote counting process. Mr WONG pointed out that this arrangement served to safeguard the integrity of the electoral process within a constituency, and to prevent intimidation and reprisals, and corrupt activities in elections. Mr WONG informed Members that as his proposal would involve substantial amendments, the drafting of which was complicated, he had instead given notice to move a motion to repeal the Amendment Regulation at the Council meeting on 9 July 2003.

76. In response to the Chairman, Mr WONG explained that if his motion to repeal the Amendment Regulation was carried, the vote counting arrangements as provided for in the existing principal Regulation would continue to apply to the 2003 District Councils election.

(f) **Report of the Subcommittee on Registration of Persons (Application for New Identity Cards) Order and Registration of Persons (Application for New Identity Cards) (Repeal) Order 2003**
(LC Paper No. CB(2) 2653/02-03)

77. Mr IP Kwok-him, Chairman of the Subcommittee, said that the Subcommittee had held one meeting with the Administration, and the details of the Subcommittee's deliberation were given in the report.

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78. Mr IP explained that the Registration of Persons (Application for New Identity Cards) Order announced the details of the first cycle of the territory-wide identity card replacement exercise, and specified the names and locations of the smart identity card centres. Mr IP further explained that the Registration of Persons (Application for New Identity Cards) (Repeal) Order 2003 repealed previous Orders issued for the last territory-wide identity card replacement exercise held from July 1987 to October 1991.

79. Mr IP said that the Subcommittee had discussed the preparatory work for the issuance of new identity cards, the rationale for certain categories of persons to be given priority to replace their identity cards, and the requirement for permanent residents living overseas to apply for new identity cards.

80. Mr IP further said that Mr James TO had requested the Administration to provide the report of the third Privacy Impact Assessment before 2 July 2003, i.e. the deadline for amending the Orders. Mr IP pointed out that the Administration had explained that it would have to discuss the draft report with the consultant first, and the consultant could only come to Hong Kong in mid July 2003. Nevertheless, the Administration had undertaken to provide the report of the third Privacy Impact Assessment to the Panel on Security as soon as it was available.

81. Mr IP said that the Subcommittee had completed its scrutiny work, and the majority of the members supported the two Orders. Mr IP further said that the scrutiny period of these two Orders had been extended to 9 July 2003 by resolution of the Council on 18 June 2003, and the deadline for giving notice of amendments was 2 July 2003.

**(g) Report of the Subcommittee on Dutiable Commodities
(Amendment) Regulation 2003**

(LC Paper No. CB(1) 2062/02-03)

82. Mr SIN Chung-kai, Chairman of the Subcommittee, explained that the Amendment Regulation aimed to amend the principal Regulation to remove the standards of quality prescribed for Chinese-type spirits. The effect was that all types of Chinese-type spirits could be supplied and sold in Hong Kong. As regards the prescribed standards for western spirits and wines, the Administration, having consulted the liquor trade, considered that the existing standards for western spirits and wines should be retained as they were in line with internationally recognised standards, and would help prevent substandard products from entering the market and boost consumer confidence.

83. Mr SIN further explained that to facilitate the assessment of duties payable for liquors, every container of liquor imported into or manufactured in Hong Kong for local consumption was required to bear a label stating clearly the alcoholic strength of the liquor.

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84. Mr SIN informed Members that the Subcommittee was in support of the policy objective of the Amendment Regulation, i.e. to remove unnecessary restrictions on the liquor trade. The Subcommittee also agreed that there was the need to introduce a labelling requirement to facilitate duty assessment, and it had, in particular, studied the implementation and enforcement aspects of the proposed labelling requirement.

85. Mr SIN said that to allow time for importers and local manufacturers to undertake necessary preparatory work, the Amendment Regulation provided that the labelling requirement would take effect 12 months after the commencement date of the Amendment Regulation. Mr SIN pointed out that members had raised concern as to how the duty payable would be assessed during the 12-month grace period. The Administration had advised that under the existing requirements, traders had to declare in their dutiable commodities permit the type and alcoholic strength of their liquor for the purpose of duty payment. The Customs and Excise Department (C&ED) would conduct risk-based sampling of liquor for laboratory analysis to verify the alcoholic strength. Duty assessment during the 12-month grace period would be akin to what C&ED was currently doing, and there would not be any extra work for either the traders or C&ED for duty assessment during the grace period. After the labelling requirement had taken effect, C&ED could shorten the processing time for import applications and could also save the time for laboratory tests.

86. Mr SIN further said that the Subcommittee had examined the issue of seizure and forfeiture in the event of non-compliance with the labelling requirement. The Administration had explained that liquor imported into or manufactured in Hong Kong which was not in compliance with the proposed labelling requirement would be subject to seizure under section 12 of the Ordinance. Under section 48(2A) of the Ordinance, C&ED would, on payment of any duty payable, restore seized liquor to the traders within 30 days of seizure. The Administration had further explained that for cases involving only the labelling offence, C&ED's intention was to restore the seized liquor to the traders for supply to the market at the earliest possible opportunity, after conclusion of the related court proceedings, payment of duty, and rectification or addition of labels.

87. Mr SIN pointed out that according to a survey conducted by C&ED, 98% of all liquors in the bonded warehouses and in retail outlets in Hong Kong already carried labels with descriptions of their alcoholic strength. The new regulation 67A(3) provided for exemption from the labelling requirement if the importer of such liquor was unable to obtain the information required for the label because the manufacturer of the liquor had ceased operation. If a trader could not ascertain the alcoholic strength from the manufacturer, the Commissioner of Customs and Excise could upon application, waive the

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labelling requirement for the liquors. In such circumstances, C&ED would draw samples of the liquors to ascertain the alcoholic strength for the purpose of duty assessment.

88. Mr SIN added that the Subcommittee recommended that the Amendment Regulation be supported.

(h) Report of the Subcommittee on Road Traffic (Temporary Reduction of New Territories Taxi Fares) Regulation 2003 and Road Traffic (Temporary Reduction of New Territories Taxi Fares) (No.2) Regulation 2003

(LC Paper No. CB(1) 2069/02-03)

89. Ms Miriam LAU, Chairman of the Subcommittee, said that the Road Traffic (Temporary Reduction of New Territories Taxi Fares) Regulation 2003 aimed at reducing the scale of fares for the hiring of the New Territories (NT) taxis within the period from 8 June 2003 to 7 December 2003 (both dates inclusive).

90. Ms LAU informed Members said that upon gazettal of the subsidiary legislation on 6 June 2003 to effect the NT taxi fare concession, some NT taxi drivers who objected to the fare concession staged a slow drive protest action. The Administration had subsequently met with representatives of the NT taxi drivers who objected to the fare concession and the 10 NT taxi associations which applied for the temporary fare concession. The Administration had secured their agreement to implement the temporary fare concession on 8 June 2003 as scheduled, while the Transport Department would proceed immediately with a questionnaire survey to gauge the views of the NT taxi operators on whether the fare concession should continue. It had been agreed that the questionnaire survey should be completed and analyzed in time for a decision to be taken on the way forward within one month from the commencement of the concession.

91. Ms LAU said that the Subcommittee had held one meeting with the Administration. The Subcommittee noted with concern that apart from the questionnaire survey as agreed between the Administration and the NT taxi trade, the Administration was concurrently conducting two other surveys, namely, the taximeter reading survey and the passenger survey, to facilitate its consideration on whether the temporary fare concession should continue.

92. Ms LAU further said that the Subcommittee held the view that the Administration should honour its agreement reached with the NT taxi trade, and it should complete and analyze the views obtained through the questionnaire survey in a fair and open manner in time for a decision to be taken on the way forward.

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93. Ms LAU informed Members that the Subcommittee noted that the deadline for giving notice to amend the two Amendment Regulations was 2 July 2003. The Subcommittee had explored whether the Administration could complete the two other surveys earlier so that members could conclude their deliberations within the legislative timetable. The Administration had advised that it would take time for them to conduct the surveys and analyze the related findings, and it would brief members on the findings of the surveys and the way forward at a meeting scheduled for 7 July 2003.

94. Ms LAU further informed Members that the Subcommittee had explored whether it was desirable to give early notice to repeal the two Amendment Regulations at the Council meeting on 9 July 2003 in order to comply with the notice requirement. After deliberation, the Subcommittee considered that it was not appropriate to do so because it might send a misleading message to the general public that the Subcommittee was not supportive of the Amendment Regulations irrespective of the outcome of the questionnaire survey to gauge the views of the NT taxi operators.

95. Ms LAU said that as the Subcommittee recommended that the President be requested to consider granting leave to dispense with the required notice, in case members wished to move a motion at the Council meeting on 9 July 2003 to repeal the two Amendment Regulations, after the Subcommittee meeting on 7 July 2003. Members expressed support for the Subcommittee's recommendation.

(i) Report of the Subcommittee on Apprenticeship (Designation of Trades) Order 2003 and Apprenticeship (Periods of Apprenticeship) Notice 2003

96. Mr CHAN Kwok-keung, Chairman of the Subcommittee, explained that the Apprenticeship (Designation of Trades) Order 2003 sought to specify the trades of audio-visual and radio-frequency mechanic, and building services mechanic to be designated trades referred to in the Ordinance. Mr CHAN further explained that the Apprenticeship (Periods of Apprenticeship) Notice 2003 specified the period of apprenticeship for the trade of audio-visual and radio-frequency mechanic to be three years, and building services mechanic to be four years. Mr CHAN added that the Order and the Notice would come into operation on 17 October 2003.

97. Mr CHAN informed Members that the Subcommittee had held one meeting with the Administration on 20 June 2003. Members had expressed concern that the specification of audio-visual and radio-frequency mechanics and building services mechanics as designated trades might result in early termination of contracts of young people who were currently employed under the Youth Work Experience and Training Scheme (YWETS), as employers might no longer be eligible for the monthly training subsidy of \$2,000 under

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YWETS. Members requested the Administration to consider granting exemption of registration under the Apprenticeship Ordinance to youth workers in these two designated trades during the term of their existing YWETS contracts.

98. Mr CHAN said that the Administration had subsequently provided a response to the Subcommittee. The Administration had confirmed, after checking with the Labour Department and the Office of the Director of Apprenticeship, that no young person aged between 14 and 18 was currently employed in the two trades under YWETS. As such, the designation of the two trades would not affect the existing contracts under YWETS.

99. Mr CHAN added that the Subcommittee supported these two items of subsidiary legislation, and would provide a written report to Members in the following week.

VII. Position on Bills Committees/subcommittees

(LC Paper No. CB(2) 2652/02-03)

(Letter dated 26 June 2003 from the Director of Administration on "Proposed Priority in the Scrutiny of Bills by Members")

100. Referring to the Director of Administration's letter dated 26 June 2003, the Chairman said that the Administration had requested priority be given to the scrutiny of the Companies (Amendment) Bill 2003. Members agreed.

101. The Chairman pointed out that as there were two more vacant slots, the Bills Committee on Town Planning (Amendment) Bill 2003 and the Bills Committee on United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 on the waiting list could commence work.

102. The Chairman said that there were seven subcommittees in action and four Bills Committees on the waiting list, including the Bills Committee on Electronic Transactions (Amendment) Bill 2003 and the Bills Committee on Waste Disposal (Amendment) Bill 2003 formed under agenda item III(a)(i) and (iii) above.

VIII. Letter dated 18 June 2003 from Hon Michael MAK to the Chairman of the House Committee complaining about the abuse of power by Hon LAU Kong-wah, Chairman of the Panel on Security, at the joint meeting of the Panel on Administration of Justice and Legal Services and Panel on Security held on 17 June 2003

(Hon Michael MAK's letter dated 18 June 2003 to the Chairman of the House Committee (Chinese version only) issued vide LC Paper No. CB(2) 2572/02-03 dated 19 June 2003 also attached)

(LC Paper No. CB(2) 2651/02-03)

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103. Referring to his letter dated 18 June 2003 to the Chairman of the House Committee, Mr Michael MAK said that he was aggrieved by the decision of Mr LAU Kong-wah, Chairman of the joint meeting of the AJLS Panel and the Panel on Security on 17 June 2003, who asked him to withdraw from the meeting. Mr MAK considered that he had been treated rudely by Mr LAU, and hoped that other Members would do justice to him regarding Mr LAU's handling of the incident.

104. Mr MAK pointed out that according to the paper prepared by the LegCo Secretariat, there were no specific rules in the Rules of Procedure on the issues before the joint Panel meeting at the material time. Mr MAK said that he would like to listen to the views of other Members on whether Mr LAU Kong-wah, who chaired the joint Panel meeting, had the power to order him to withdraw from the meeting, and if so, what the basis of such power was. Mr MAK further said that it was necessary to clarify the powers and discretion which could be exercised by a Panel chairman, given that more and more controversial issues were discussed at Panel meetings.

105. Mr LAU Kong-wah said that while Members' views on an issue might differ, it had been the convention in LegCo that Members would not use offensive and insulting language about other Members and public officers when expressing their views. Mr LAU informed Members that at the joint Panel meeting on 17 June 2003, when Mr MAK called the Secretary for Security (S for S) a "crook", a point of order was raised by S for S on whether Mr MAK had used offensive language about her. As he considered calling a person a "crook" a very serious accusation, he had tried to persuade Mr MAK to withdraw his remarks. Mr MAK then asked what the consequence would be if he did not withdraw his remarks. Mr LAU said that he responded that Mr MAK could not attend the meeting, and Mr MAK left the meeting immediately. Mr LAU pointed out that the events happened in a natural sequence, and other members present at the meeting had not raised any dissenting views.

106. Mr LAU Kong-wah said that the chairman of a committee meeting had the duty to maintain order of the meeting, to rule on points of order, and to uphold the dignity of the Council. Mr LAU considered that the chairman performed a role similar to that of a referee of a football match, and he should have the power to use a "yellow card" or a "red card" where necessary to maintain order. Mr LAU added that he had not abused his power, and he had not treated Mr MAK rudely. He would be happy to listen to the views of other Members.

107. The Chairman said that the House Committee should not take on the role of an arbitrator over the incident. Members should focus their discussion on what course of action should be taken by a Panel chairman

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when a point of order regarding the use of insulting or offensive language was raised at a meeting.

108. The Chairman invited the Legal Adviser to explain the relevant rules to Members. The Legal Adviser said that to facilitate discussion, the LegCo Secretariat had prepared a paper detailing the relevant rules in the Rules of Procedure on order in Council and committees. The Legal Adviser further said that Rule 41 of the Rules of Procedure provided that "it shall be out of order to use offensive and insulting language about Members of the Council". It was his understanding that it was the convention of committees to accord courtesy to all persons who attended their meetings. Should a chairman have ruled that certain remarks made about a member were insulting or offensive, it was an accepted practice that the chairman would invite the member in question to withdraw those remarks. However, in the context of the Rules of Procedure, he confirmed that there were no express rules on the procedure that should follow in a situation where a Member refused to withdraw insulting or offensive remarks upon the invitation of a chairman to do so. The Legal Adviser pointed out that Rule 45 of the Rules of Procedure, which provided that "the chairman of any standing or select committee shall order a Member whose conduct was grossly disorderly to withdraw immediately from the committee for the remainder of the meeting", did not apply to Panels as they were not standing committees.

109. The Legal Adviser explained that while there were no specific rules dealing with order at a Panel meeting in this respect, the spirit of the Rules of Procedure was to allow Panels and other committees flexibility to ensure the orderly conduct of their business. In this connection, Rule 77 of the Rules of Procedure provided that "the practice and procedure of a Panel or its subcommittee shall be determined by that Panel. In any such determination, a Panel shall take into account any guidelines provided under Rule 75(8)(House Committee)". The Legal Adviser said that it was not always practicable for a Panel to take decisions on all matters by voting at its meetings. In such circumstances, it would be for the chairman to take the decision which would be subject to any dissenting views raised by members of the Panel if the issue concerned was not covered by the Rules of Procedure.

110. Mr TAM Yiu-chung said that he was not present at the joint Panel meeting on 17 June 2003. However, according to the verbatim record of the meeting, he did not find that Mr Michael MAK had been treated rudely. Mr TAM further said that it seemed that other members present at the meeting generally felt that the use of the term "crook" about S for S was inappropriate. As S for S had raised a point of order at the meeting, the chairman had to rule whether Mr MAK had used offensive or insulting language about her. Mr TAM added that if he were Mr LAU, he would have made a similar decision.

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111. Mr TAM pointed out that Mr LAU had only advised Mr MAK to withdraw his remarks, and then suggested that he could not attend the meeting if he refused to do so. Mr LAU had not abused his power as Mr MAK himself had not disputed Mr LAU's suggestion, and other members also had not raised dissenting views on Mr LAU's suggestion.

112. Mr TAM further said that the House Committee should not take on an "arbitrating" role over the matter. He had expressed concern at the last meeting that the House Committee should not become an "appeals committee" for Panels and other committees. He considered it difficult for those Members who had not attended the joint meeting to comment on the incident. Mr TAM pointed out that the Rules of Procedures stipulated that the practice and procedure of a Panel should be determined by that Panel. Mr TAM added that if Members considered that there should be specific provisions in the Rules of Procedure to deal with conduct of members at Panel meetings, the Committee on Rules of Procedure (CRoP) should be invited to study the matter.

113. Miss CHOY So-yuk said that Mr LAU Kong-wah, as the chairman of the meeting, had the power to decide on a point of order at that meeting. Miss CHOY pointed out that Mr LAU had not actually ordered Mr MAK to withdraw from the meeting, and that Mr MAK had left the meeting on his own accord. Miss CHOY further said that the chairman of a meeting had to maintain order and to ensure the smooth conduct of business at the meeting. She considered that Members should not use offensive and insulting language at meetings of the Council and committees. However, as there were no rules on how to deal with a situation where a Member who had used offensive and insulting language at a meeting and had refused to withdraw his remarks or withdraw from the meeting, the matter required further study.

114. Mr David CHU said that meetings of LegCo committees were held in public. There was a practical need for a Panel chairman to have the power to order a Member, who had used offensive and insulting language at a meeting, to withdraw from the meeting if he refused to withdraw his remarks, in order to uphold the image of LegCo.

115. Mr SIN Chung-kai said that in the light of the Legal Adviser's advice, it appeared that the Rules of Procedure did not provide Mr LAU Kong-wah with adequate power to ask Mr Michael MAK to withdraw from the meeting on 17 June 2003. Mr SIN further said that while he agreed that Members should respect other Members and participants of a meeting, it was necessary to examine whether a Panel chairman should have the power to order a Member or deputation to withdraw from a Panel meeting for using offensive or insulting language.

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116. Mr LEE Cheuk-yan said that the image of LegCo would be adversely affected only if Members failed to scrutinize bills carefully and thoroughly. Mr LEE further said that Members should have the right to choose the language they wanted to use, and it would be for their constituents to judge whether or not the language used was appropriate. Mr LEE added that it was necessary to define "offensive and insulting language" in Rule 41 of the Rules of Procedure. He opined that if describing a person as "crook" was a fair comment, the expression should not be regarded as offensive or insulting.

117. Mr LEE pointed out that there were no specific rules on how a Panel chairman should act in the situation faced by the joint meeting on 17 June 2003. Mr LEE further pointed out that the members present at the joint meeting had not been asked to consider whether the chairman should use the "red card". As such, he considered that Mr LAU did not have the power to ask Mr MAK to withdraw from the meeting. Mr LEE added that Mr MAK was rightly aggrieved because Mr LAU Kong-wah had abused his power.

118. Mr LEE said that he personally considered that under no circumstances should the chairman of a meeting order a Member to withdraw from a meeting, as such power could easily be abused to stifle discussion at committee meetings.

119. Mr TSANG Yok-sing sought clarification from the Legal Adviser on the power and responsibility of the chairman in the situation where a Member or public officer raised a point of order at a Panel meeting that offensive or insulting language about him had been used.

120. The Legal Adviser said that it would be for the Panel chairman to determine whether offensive or insulting language had been used about a Member or public officer, if such a point of order was raised at a Panel meeting. The Legal Adviser explained that there were no specific rules in the Rules of Procedure stipulating the course of action that the chairman should take. However, it was the practice for the chairman to ask the Member to withdraw his remarks which had been ruled to be offensive or insulting.

121. The Legal Adviser further said that a Panel chairman had the responsibility to ensure that business on the agenda of a meeting was being dealt with in an orderly and efficient manner. If discussion of the meeting was interrupted, the Panel chairman had the responsibility to deal with the situation. If there were no specific rules on the course of action to take, the chairman should normally seek the consent of the members present at the meeting before taking action. Where it was necessary for the chairman to take immediate action, the chairman could seek the endorsement of the meeting as soon as practicable after taking action.

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122. Mr TSANG Yok-sing asked whether a Panel chairman had the responsibility to ensure that order was observed by members at a meeting. Mr TSANG added that it seemed that a Panel chairman only had responsibility, and no power.

123. The Legal Adviser responded that while there were no specific rules on the responsibility of a Panel chairman, Rules 43 of the Rules of Procedure stipulated that Rules 36 to 42 in Part H "shall apply to the proceedings in a committee unless the chairman of the committee orders otherwise". The Legal Adviser advised that in 1999, CRoP had considered whether Rules 44 and 45 concerning order of Members at meetings of the Council, standing committees and select committees should be extended to other committees of the Council, such as the House Committee, Panels, Bills Committees and the subcommittees of these committees. CRoP had decided at that time that it was not necessary to extend Rules 44 and 45 to other committees.

124. The Chairman said that it was the responsibility of a Panel chairman to maintain order at meetings. Although there were no specific rules in the Rules of Procedure about the power of Panel chairmen, it did not mean that a Panel chairman could not take certain actions, if such actions were agreed to by the Panel.

125. Mr CHAN Kam-lam said that there was no question of Mr LAU abusing his power or being rude or unfair to Mr MAK. Mr CHAN pointed out that other members present at the meeting also considered the use of the expression "crook" to describe S for S inappropriate.

126. Mr CHAN further said that Members should be careful in their choice of words when speaking at Council and committee meetings. Mr CHAN added that CRoP should be invited to consider whether specific rules on order at Panel meetings should be laid down in the Rules of Procedure.

127. Mr Andrew WONG said that it was inappropriate to use expressions such as "crook" or "liar" or "idiot" about Members or public officers at Council or committee meetings. Mr WONG further said that when he was the LegCo President in 1996, he had made a very bold interpretation of the Standing Orders of the previous Legislative Council which were substantially the same as Rules 41 and 45 of the Rules of Procedures when he ordered a Member to withdraw immediately from a Council meeting for the remainder of that meeting, on the ground that the Member's refusal to withdraw his offensive and insulting remarks despite being repeatedly asked to do so by the President amounted to grossly disorderly conduct.

128. Mr WONG said that it was a very serious matter for the chairman of a committee to order a Member to withdraw from a meeting. He pointed out that the Speaker of the House of Commons of the British Parliament did not

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have such power. Mr WONG further said that Panels and other committees should be allowed flexibility in its operation; hence there should not be too many rules. Mr WONG was of the view that if it was considered necessary to include in the Rules of Procedure provisions relating to the ordering of a Member to withdraw from a Panel meeting, such power should be exercised only on a motion passed by the Panel, and not by the chairman acting alone. Mr WONG added that if a glossary on offensive or insulting language was to be compiled, CRoP should invite the President to give her view.

129. Mr CHEUNG Man-kwong said that he was present at the joint Panel meeting, and was amongst those members who considered that Mr MAK's expression "crook" about S for S was inappropriate and that Mr MAK should withdraw his remarks. Mr CHEUNG further said that Mr LAU had not been rude to Mr MAK. He pointed out that the ruling made by Mr LAU Kong-wah comprised two parts, i.e. Mr MAK was asked to withdraw his remarks, and to withdraw from the meeting if he refused to withdraw the remarks. Mr CHEUNG added that at that time, he was not aware that the rules on order of Council meetings were not applicable to Panels, and therefore did not find any problems with Mr LAU's ruling. However, with the benefit of hindsight, it now appeared that Mr LAU might not have the power to ask Mr MAK to withdraw from the meeting, even though other members had not expressed any dissenting views on Mr LAU's ruling at that time.

130. Mr CHEUNG said that while Members should be allowed to speak freely at committee meetings, Members should avoid using offensive or insulting language. He agreed that Members might need to consider how to deal with similar situations in the future.

131. Mr YEUNG Yiu-chung said that it was inappropriate for Mr MAK to call S for S a "crook" at the joint Panel meeting. Although there were no specific rules on order of Panel meetings, he believed that it was the spirit of the Rules of Procedure that a Panel chairman should have the power to ask a Member to withdraw from a meeting to ensure the smooth conduct of business of that meeting. Mr YEUNG further said that he disagreed with Mr LEE Cheuk-yan's earlier remarks that it would be a matter for the constituents to determine whether a Member had use offensive language about another Member or a public officer. Mr YEUNG pointed out that if a point of order was raised at a meeting, the chairman would have to rule on the matter immediately, although it was often a difficult decision to make.

132. Mr James TIEN said that he was not a member of the two Panels and was not present at the joint meeting on 17 June 2003. He was surprised to learn that Panel chairmen did not have the power to ask a Member to withdraw from a meeting to enforce his decision on a point of order. Mr TIEN further said that Panel chairmen should have certain powers to ensure the smooth conduct of meetings. He did not think that Panel chairmen would

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abuse their powers as they were elected by members of the Panel. Mr TIEN said that Members belonging to the Liberal Party considered that the matter should be further studied by CRoP. He was inclined to support extending Rules 44 and 45 to all LegCo committees.

133. Mr IP Kwok-him said that more and more issues concerning order of committee meetings had been raised recently. Mr IP further said that there were no specific provisions in the Rules of Procedures that the chairman of a Panel could not ask a Member to leave a meeting on the ground that the Member had refused to withdraw his offensive or insulting remarks. Mr IP pointed out that Rule 77(15) provided Panels with autonomy and flexibility, and it was the existing practice for a Panel chairman to decide on a point of order, subject to any dissenting views of the majority of the members of the Panel. Mr IP expressed agreement that CRoP should be invited to consider whether rules concerning order at Panel meetings should be expressly provided in the Rules of Procedure.

134. Mr LEUNG Fu-wah remarked that some Members might enjoy being asked to withdraw from a meeting because of the ensuing media coverage, and some Members deliberately walked out of a meeting because they wanted to leave the meeting anyway. Mr LEUNG further said that Mr Michael MAK could choose not to withdraw from the meeting if he believed that he had the right to stay. Mr LEUNG considered that since Mr MAK had not disputed Mr LAU's decision at that time, Mr MAK had no cause to complain afterwards.

135. Mr SZETO Wah disagreed with Mr IP Kwok-him that a Panel chairman had the power to order a Member to withdraw from a meeting on the ground that there were no specific rules in the Rules of Procedure prohibiting such a course of action. Mr SZETO pointed out that only the chairmen of select committees and standing committees, and not Panels, were given such power under the Rules of Procedure. Mr SZETO further said that only Mr MAK had the right to say how he felt, and it was Mr MAK's feeling that he had been treated rudely by Mr LAU. Referring to the ruling made by Mr Andrew WONG in 1996, Mr SZETO said that personally, he did not agree that the Member concerned had used offensive or insulting language in that incident.

136. Ms LI Fung-ying said that according to paragraphs 7 and 8 of the Secretariat's paper, a Panel chairman had the responsibility and power to decide on points of order raised in relation to Rule 41(4) and (5) of the Rules of Procedure, but the Rule was not clear about the extent of the power of the chairman to enforce the Rule. Ms LI pointed out that some members of the Panel on Public Service had, at a recent meeting, expressed dissatisfaction with a decision of the Panel Chairman concerning the types of issues that could be discussed under the item of "Any Other Business". Ms LI

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considered that there should be specific rules to facilitate Panel chairmen to conduct meetings in a smooth and efficient manner. She agreed that the matter should be referred to CRoP for discussion.

137. Ms Audrey EU asked the Legal Adviser to clarify whether grossly disorderly conduct referred to in Rule 45(2) of the Rules of Procedure included using offensive or insulting language and imputing improper motives which were covered respectively in subrules (4) and (5) to Rule 41. Ms EU also asked whether the two subrules were applicable to public officers attending a meeting of a LegCo committee.

138. The Legal Adviser explained that there was no definition in the Rules of Procedure of what constituted grossly disorderly conduct. A contravention of Rule 41(4) or (5) would not necessarily by itself constitute grossly disorderly conduct within the meaning of Rule 45(2). Referring to Mr Andrew WONG's explanation of the ruling he made in 1996 when he was the LegCo President, the Legal Adviser said that Mr WONG ruled, at that time, that the behaviour of the Member concerned amounted to grossly disorderly conduct because the Member refused to withdraw his remarks which had been ruled to be offensive and insulting, despite being repeatedly asked by the President to do so.

139. The Legal Adviser further said that as explained in paragraph 6(a) of the paper, Rule 10(2) had been the basis for application of the Rules of Procedure to public officers attending meetings of the Council and its committees.

140. Miss CHOY So-yuk said that Mr CHEUNG Man-kwong's remarks were very fair. She, however, disagreed with Mr LEE Cheuk-yan that a Member could use offensive or insulting language if he believed that he was making a fair comment. Miss CHOY further said that some Members might have the habit of using offensive or insulting language about other people. She considered that these Members should not be lenient to themselves, and strict on others.

141. Mr LEE Cheuk-yan reiterated that to call a person a "crook" would not be offensive or insulting, if it was a fair comment. He clarified that he was not suggesting that there should be no rules on the use of offensive or insulting language which had already been provided for in the Rules of Procedure.

142. In concluding the discussion, the Chairman said that the chairman of a meeting had the responsibility to ensure the smooth conduct of the meeting, and the question was whether a Panel chairman had the power to order a Member to withdraw from a meeting. The Chairman pointed out that a chairman's decision to order a Member to withdraw from a meeting carried

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very serious consequence. However, what happened at the joint meeting was that Mr MAK had not challenged Mr LAU's advice to ask him to withdraw from the meeting, and members present at the meeting also had not raised objection.

143. The Chairman stressed that the House Committee should not take on an "arbitrating" role in the affairs of Panels or other committees. The discussion by the House Committee aimed to enable Members to exchange views on how similar situations in the future should be dealt with. The Chairman said that although CRoP decided that it was not necessary to extend Rules 44 and 45 to other committees in 1999, these rules would have to be reviewed in the light of experience, and Mr MAK's case provided a useful example for CRoP to take into account when reviewing the rules. The Chairman quoted another example in which she had raised a point of order at a Council meeting that Ms Emily LAU had used offensive and insulting language about other Members. Although the President had ordered Ms LAU to withdraw her remarks, Ms LAU had refused to do so. On that occasion, the President had not ordered Ms LAU to withdraw from the meeting but informed the Council that she had formally reprimanded Ms LAU for her impropriety.

144. The Chairman suggested that CRoP should be invited to study whether it was necessary to provide express authority for a Panel chairman to deal with a Member using offensive or insulting language at a Panel meeting, and whether Rules 44 and 45 of the Rules of Procedure concerning order at meetings of the Council, standing committees and select committees should be extended to Panels. Members agreed.

145. Mr Michael MAK said that he was very unhappy that Mr LAU Kongwah had not allowed him to stay for the remaining part of the joint Panel meeting on 17 June 2003. He added that Mr LAU did not have the power, under the present rules, to ask him to withdraw from the meeting, and he felt that he had been rudely treated. Mr MAK further said that what he had said about the public officer concerned at that meeting was a fair comment, and that some Members had also used offensive language about him at this meeting. He agreed that CRoP should be invited to study the issues raised in his letter.

IX. Any other business

146. There being no other business, the meeting ended at 5:58 pm.