

立法會  
*Legislative Council*

LC Paper No. CB(2) 1200/04-05

Ref : CB2/H/5/04

**House Committee of the Legislative Council**

**Minutes of the 21st meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 1 April 2005**

**Members present :**

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)  
Hon Fred LI Wah-ming, JP (Deputy Chairman)  
Hon James TIEN Pei-chun, GBS, JP  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., 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 Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon CHAN Yuen-han, JP  
Hon CHAN Kam-lam, JP  
Hon LEUNG Yiu-chung  
Hon SIN Chung-kai, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Dr Hon YEUNG Sum  
Hon LAU Kong-wah, JP  
Hon LAU Wong-fat, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, BBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Hon Frederick FUNG Kin-kee, JP

Hon Audrey EU Yuet-mee, SC, JP  
Hon Vincent FANG Kang, JP  
Hon WONG Kwok-hing, MH  
Dr Hon Joseph LEE Kok-long  
Hon Daniel LAM Wai-keung, BBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon MA Lik, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Dr Hon KWOK Ka-ki  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon CHEUNG Hok-ming, SBS, JP  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon KWONG Chi-kin  
Hon TAM Heung-man

**Members absent :**

Hon Bernard CHAN, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, JP  
Hon Howard YOUNG, SBS, JP  
Hon LAU Chin-shek, JP  
Hon Andrew CHENG Kar-foo  
Hon LEE Wing-tat  
Hon LI Kwok-ying, MH  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon CHIM Pui-chung  
Hon Albert Jinghan CHENG

**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  
Ms Pauline NG Assistant Secretary General 1

Mr Ray CHAN	Assistant Secretary General 3
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Miss Anita HO	Assistant Legal Adviser 2
Miss Lolita SHEK	Senior Council Secretary (2)7

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Action

**I. Confirmation of the minutes of the 20th meeting held on 18 March 2005**  
(*LC Paper No. CB(2) 1157/04-05*)

The minutes were confirmed.

**II. Legal Service Division report on subsidiary legislation gazetted on 18 March 2005**  
(*LC Paper No. LS 42/04-05*)

2. The Legal Adviser said that two items of subsidiary legislation were gazetted on 18 March 2005 and would be tabled in the Legislative Council (LegCo) on 6 April 2005.

3. Regarding the Eastern Harbour Crossing Ordinance (Amendment of Schedule) Notice 2005, the Legal Adviser explained that the Notice amended the Schedule to the Eastern Harbour Crossing Ordinance (Cap. 215) to increase the Eastern Harbour Crossing Road Tunnel tolls pursuant to an arbitration award. The Notice would come into operation on 1 May 2005.

4. The Legal Adviser further explained that by virtue of section 55(5) and (6) of the Ordinance, where in an award pursuant to submission to arbitration it was determined that the tolls should be varied, the tolls should be varied in compliance with such award. The Commissioner for Transport should, as soon as was practicable after such award, amend the Schedule by notice in the Gazette.

5. The Legal Adviser added that the Panel on Transport was briefed by the Administration and the New Hong Kong Tunnel Company Limited (the Company) on the toll increase at its meeting on 18 March 2005. The Panel would revisit the matter at its next meeting on 22 April 2005.

6. Mr LAU Kong-wah sought clarification on LegCo's power to amend the Notice.

Action

7. The Legal Adviser said that according to section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1), LegCo's amending power of subsidiary legislation had to be consistent with the power to make such subsidiary legislation. As the power of the Commissioner for Transport to make the Notice was restricted by section 55(5) and (6) of Cap. 215, the power of Members to amend this Notice was similarly restricted. There was little room for Members to amend the Notice, except for minor technical amendments.

8. Mr LAU Kong-wah said that a subcommittee should be formed to scrutinise the Notice.

9. In response to Ms Emily LAU's enquiry, the Legal Adviser explained that the Notice was subject to the negative vetting procedure. The Notice would come into operation on 1 May 2005, and it was not necessary for a motion on the Notice to be moved in Council to seek LegCo's approval, unless amendments were proposed before expiry of the scrutiny period. However, as he had explained earlier, there was little room for LegCo to amend the content of the Notice. The Chairman added that LegCo could not repeal the Notice.

10. Mr LEE Cheuk-yan supported that a subcommittee be formed to study the Notice. Mr LEE expressed concern that while the scrutiny period could be extended to 25 May 2005 by resolution, the Notice would come into operation on 1 May 2005. He said that the Administration should request the Company to defer implementation of the new tolls until LegCo had completed scrutiny of the Notice. Ms Emily LAU concurred with Mr LEE.

11. The Chairman said that the date of 1 May 2005 for the toll increase to come into effect was made in the arbitration award.

12. The Legal Adviser said that Cap. 215 provided for the procedures to vary the tolls, and that implementation of the new tolls by the Company was outside the ambit of the Ordinance.

13. Mr Martin LEE asked whether LegCo could seek to reduce the toll increase by resolution of the Council.

14. The Legal Adviser said that under Article 73(6) of the Basic Law, LegCo could debate any issue concerning public interests. However, such a motion would only be an expression of views and would not have any binding effect.

15. Ms Emily LAU said that the subcommittee, if formed, should listen to the views of the public, in addition to holding discussion with the Administration and the Company.

Action

16. Mr WONG Kwok-hing said that at the meeting of the Panel on Transport on 18 March 2005, the representative of the Environment, Transport and Works Bureau (ETWB) had promised that the toll increase would not be gazetted, pending further discussion with the Company on the matter. However, the Notice was gazetted on the same day of the meeting. Mr WONG considered that the Administration had not honoured its promise which was disrespectful to the Panel, and that LegCo should follow up the matter.

17. Mr LAU Kong-wah, Chairman of the Panel on Transport, confirmed that the representative of ETWB had made such a promise at the Panel meeting on 18 March 2005.

18. The Chairman said that it would be more appropriate for the Panel on Transport to follow up the matter with ETWB.

19. Mr SIN Chung-kai and Mr WONG Kwok-hing suggested that the Chairman should raise the matter with CS at their next meeting. The Chairman agreed. Mr Fred LI said that the LegCo Secretariat should check the audio record of the meeting to ascertain what exactly the representative of ETWB had promised.

20. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join: Mr LEE Cheuk-yan, Mr Fred LI, Mr LAU Kong-wah, Ms Miriam LAU, Ms Emily LAU, Mr Andrew CHENG (as advised by Mr SIN Chung-kai), Mr WONG Kwok-hing and Mr Jeffrey LAM.

21. The Chairman reminded Members that the deadline for amending these two items of subsidiary legislation was 4 May 2005, or 25 May 2005 if extended by resolution.

**III. Business for the Council meeting on 6 April 2005**

(a) **Questions**  
(*LC Paper No. CB(3) 466/04-05*)

22. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 6 April 2005.

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

(i) **Banking (Amendment) Bill 2005**

(ii) **Securities and Futures (Amendment) Bill 2005**

**(iii) Chief Executive Election (Amendment) (Term of Office of the Chief Executive) Bill**

23. The Chairman said that the Administration had given notice to present the above three Bills to LegCo on 6 April 2005. The House Committee would consider the three Bills at its meeting on 8 April 2005.

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

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**Vocational Training Council (Amendment) Bill 2004**

24. The Chairman said that at the House Committee meeting on 11 March 2005, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

**(d) Government motion**

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

**(e) Members' Bills - First Reading and moving of Second Reading**

**Citibank (Hong Kong) Limited (Merger) Bill**

26. The Chairman said that Dr David LI had given notice to present the above Bill to LegCo on 6 April 2005. The House Committee would consider the Bill at its meeting on 8 April 2005.

**(f) Members' motions**

**(i) Proposed resolution to be moved by Hon Mrs Sophie LEUNG LAU Yau-fun under Rule 85 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 436/04-05 dated 11 March 2005.)*

27. The Chairman said that above motion would be moved by Mrs Sophie LEUNG, and the wording of the motion had been issued to Members.

28. In response to Ms Emily LAU's enquiry, Assistant Secretary General 3 informed Members that the proposed amendment to the motion approved by the President had been issued to Members on 31 March 2005.

Action

29. The Chairman said that the speaking time limit for each Member speaking at the debate was 15 minutes.

(ii) **Motion on “Perfecting the policy on protection of trees”**  
(Wording of the motion issued vide LC Paper No. CB(3) 457/04-05 dated 21 March 2005.)

(iii) **Motion on “Policy on assisting women in poverty”**  
(Wording of the motion issued vide LC Paper No. CB(3) 458/04-05 dated 19 March 2005.)

30. The Chairman said that the above motions would be moved by Miss CHOY So-yuk and Miss CHAN Yuen-han respectively, and the wording of the motions had been issued to Members.

**IV. Position on Bills Committees/subcommittees**  
(LC Paper No. CB(2) 1159/04-05)

31. The Chairman said that there were eight Bills Committees and six subcommittees in action.

**V. Any other business**

**Request for a verbatim record to be made of the proceedings of the special meeting of the House Committee on 15 March 2005**  
(Letter dated 21 March 2005 from Hon Emily LAU Wai-hing to the Chairman of the House Committee (LC Paper No. CB(2) 1161/04-05(01)))

32. Ms Emily LAU said that given the importance of the subject matter discussed at the special meeting of the House Committee on 15 March 2005, a full record of the questions and answers, in the form of a verbatim record, should be provided. Ms LAU further said that verbatim records should be prepared whenever important subject matters were discussed at special meetings of the House Committee.

33. The Chairman proposed that a verbatim record of the special meeting on 15 March 2005 should be provided. Members agreed. The Chairman added that the House Committee would consider the provision of verbatim records for special meetings of the House Committee on a case by case basis.

34. There being no other business, the meeting ended at 2:51 pm.