

立法會  
*Legislative Council*

LC Paper No. CB(2) 679/05-06

Ref : CB2/H/5/04

**House Committee of the Legislative Council**

**Minutes of the 8th meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 9 December 2005**

**Members present :**

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)  
Hon Fred LI Wah-ming, JP (Deputy Chairman)  
Hon James TIEN Pei-chun, GBS, JP  
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Dr Hon LUI Ming-wah, SBS, JP  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon CHEUNG Man-kwong  
Hon Bernard CHAN, JP  
Hon CHAN Kam-lam, SBS, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon WONG Yung-kan, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, SBS, JP  
Dr Hon YEUNG Sum  
Hon LAU Kong-wah, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon Andrew CHENG Kar-foo  
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



Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Miss Kathleen LAU	Chief Public Information Officer
Miss Becky YU	Chief Council Secretary (1)1
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Miss Monna LAI	Assistant Legal Adviser 7
Miss Lolita SHEK	Senior Council Secretary (2)7

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Action

**I. Confirmation of the minutes of the 7th meeting held on 2 December 2005**  
*(LC Paper No. CB(2) 592/05-06)*

The minutes were confirmed.

**II. Matters arising**

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

Chief Executive (CE)'s Question and Answer (Q & A) Session

2. The Chairman said that she had informed CS that Ms Emily LAU had requested that CE should attend a Q & A Session to answer Members' questions on the Fifth Report of the Constitutional Development Task Force. CS had undertaken to convey Ms LAU's request to CE for his consideration.

Proposal to request for papers from the Commission on Strategic Development and its four committees

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3. The Chairman further said that she had requested that papers of the Commission on Strategic Development and its four committees should formally be provided to Members, although the papers were available on the website of the Central Policy Unit (CPU).

4. The Chairman added that CS would discuss Members' request with CPU.

**III. Business arising from previous Council meetings**

**Legal Service Division report on subsidiary legislation gazetted on 2 December 2005 and tabled in Council on 7 December 2005**

*(LC Paper No. LS 16/05-06)*

Action

5. The Chairman said that six items of subsidiary legislation were gazetted on 2 December 2005 and tabled in the Legislative Council (LegCo) on 7 December 2005.

6. Members did not raise any queries on these items of subsidiary legislation.

7. The Chairman reminded Members that the deadline for amending these six items of subsidiary legislation was 21 December 2005, or 8 February 2006 if extended by resolution.

**IV. Further business for the Council meeting on 14 December 2005**

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

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**Revenue (Personalized Vehicle Registration Marks) Bill 2005**

8. The Chairman said that the Bills Committee on the Bill had presented its report to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

**V. Business for the Council meeting on 21 December 2005**

(a) **Questions**  
(*LC Paper No. CB(3) 202/05-06*)

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

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

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

(c) **Government motion**

**Two motions to be moved by the Secretary for Constitutional Affairs concerning the Amendment to the Method for the Selection of the Chief Executive and the Amendment to the Method for the Formation of the Legislative Council**

(*Wording of the motions issued vide LC Paper No. CB(3) 206/05-06 dated 7 December 2005.*)

Action

*(Letter dated 6 December 2005 from the Secretary for Constitutional Affairs to the President of the Legislative Council and copied to the Chairman of the House Committee (LC Paper No. CB(2) 629/05-06(01))*

11. The Chairman said that the Secretary for Constitutional Affairs (SCA) had given notice to move the two motions at the Council meeting on 21 December 2005. The Chairman further said that in the light of the requirements of Annexes I and II to the Basic Law and the Interpretation by the Standing Committee of the National People's Congress, the President had directed that amendments to SCA's motions, if any, should be moved by the Government only and the passage of the two motions should require a two-thirds majority of all Council Members.
12. The Chairman added that the speaking time limit of 15 minutes for each Member speaking on each motion would apply.
13. Ms Emily LAU said that CE had indicated earlier that the Administration would announce an amendment to the package of proposals on constitutional development in the coming week. There should be a forum for Members to discuss the Administration's amendment as soon as it was announced, and before the debates on the two motions at the Council meeting on 21 December 2005.
14. The Chairman said that it was difficult to make any arrangement at the present stage, as LegCo had not received any details about the amendment. She pointed out that the amendment could be studied by the relevant Panel. She added that the matter could be discussed, if necessary, at the next meeting of the House Committee on 16 December 2005.
15. Mr Howard YOUNG agreed that if the amendment to be announced by the Administration had implications on the two motions to be moved by SCA, the House Committee could consider the matter at its next meeting. Mr YOUNG added that the relevant Panel or subcommittee, or the House Committee, could convene a special meeting, if necessary, to discuss the amendment.
16. Mr YOUNG asked whether a joint debate on the two motions could be held, as the motions were related.
17. The Chairman explained that under Rule 34(4) of the Rules of Procedure (RoP), the President could allow a joint debate on a motion and its amendments. As the two motions to be moved by SCA were separate motions, Rule 34(4) did not apply.

Action

18. Members did not raise objection to SCA moving the two motions at the Council meeting on 21 December 2005.

(d) **Members' motions**

(i) **Motion to be moved by Hon Howard YOUNG**

*(Wording of the motion issued vide LC Paper No. CB(3) 211/05-06 dated 9 December 2005.)*

19. The Chairman said that the subject of the motion to be moved by Mr Howard YOUNG was "Expediting the construction of the MTR South Island Line", and the wording of the motion had just been issued to Members.

(ii) **Motion to be moved by Hon WONG Kwok-hing**

*(Wording of the motion issued vide LC Paper No. CB(3) 212/05-06 dated 9 December 2005.)*

20. The Chairman said that the subject of the motion to be moved by Mr WONG Kwok-hing was "Comprehensive review of labour legislation", and the wording of the motion had just been issued to Members.

21. The Chairman said that some Members had enquired whether the debates on the two Members' motions could be deferred, as the debates on the two motions to be moved by SCA were likely to be very long.

22. The Chairman explained that under rules 14(h)(ii) and 14(i) of the House Rules (HR), where the House Committee made prior suggestion to the mover of a motion for deferring his debate, and the mover accepted the suggestion, the Member concerned could move the withdrawn motion at the first available slot at a subsequent Council meeting. However, the number of motion debates at the Council meeting should not thus exceed two.

23. The Chairman added that she had informally consulted Mr Howard YOUNG and Mr WONG Kwok-hing before the meeting. They were agreeable to deferring the debates on their motions to the next available slots at the Council meeting on 11 January 2006.

24. Mr Howard YOUNG and Mr WONG Kwok-hing said that they were willing to defer the debate on their motions to the Council meeting on 11 January 2006.

25. Mr LEE Wing-tat said that the debates on the two Members' motions should be held as scheduled at the Council meeting on 21 December 2005; otherwise, the number of debate slots for Members in this session would be reduced by two.

Action

26. Ms Emily LAU enquired about the arrangement for the Council meeting, if the business on the Agenda could not be finished on 21 December 2005. The Chairman responded that the President had directed that in such a case, the Council meeting would resume on 22 December 2005 at 9:00 am for the continuation of business.

27. Ms Emily LAU supported deferring the debates on the two Members' motions to 11 January 2006.

28. The Chairman put the proposal that the debates on the two Members' motions be deferred to the Council meeting on 11 January 2006 to vote. The result was that 26 Members voted for the proposal, six Members voted against the proposal, and one Member abstained from voting.

29. The Chairman said that the two Members' motions would be deferred to the Council meeting on 11 January 2006.

## **VI. Reports of Bills Committees and subcommittees**

### **(a) Report of the Bills Committee on Civil Aviation (Amendment) Bill 2005**

*(LC Paper No. CB(1) 473/05-06)*

30. Ms Margaret NG, Chairman of the Bills Committee, said that the Administration would move Committee Stage amendments (CSAs) to address Members' various concerns. Ms NG added that the Bills Committee supported the CSAs.

31. The Chairman said that the Administration intended to resume the Second Reading debate on the Bill on 11 January 2006. The deadline for giving notice of CSAs, if any, was Saturday, 31 December 2005.

### **(b) Report of the Subcommittee to Study the Administration's Proposals for the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008**

*(LC Paper No. CB(2) 600/05-06)*

32. Mr TAM Yiu-chung, Chairman of the Subcommittee, invited Members to note the report of the Subcommittee.

33. The Chairman said that SCA had given notice to move two motions on 21 December 2005 to amend the methods for selecting CE in 2007 and for forming LegCo in 2008, as discussed under agenda item V(c) above.

Action

**VII. Position on Bills Committees/subcommittees**

*(LC Paper No. CB(2) 596/05-06)*

34. The Chairman said that there were 11 Bills Committees and six subcommittees in action.

**VIII. Paper of the Committee on Rules of Procedure (CRoP)**

**Proposed amendment to the Rules of Procedure regarding motions concerning the amendments to the methods for the selection of the Chief Executive and for the formation of the Legislative Council**

*(LC Paper No. CROP 23/05-06)*

35. Mr Jasper TSANG, Chairman of CRoP, invited Members to endorse CRoP's recommendations to amend Rule 46(1) of RoP to include Annexes I and II to the Basic Law as two of the exceptions to the general rule of requiring a majority vote for the passage of motions. Mr TSANG also invited Members to support his seeking the President's waiver of the required notice for moving the proposed resolution to amend Rule 46(1) at the Council meeting on 14 December 2005.

36. Dr YEUNG Sum supported CRoP's proposed amendment to RoP, and Mr TSANG's request to seek the President's waiver of the required notice for moving the proposed resolution on 14 December 2005.

37. Mr Martin LEE said that although Members belonging to the Democratic Party did not support the two motions to be moved by SCA, they considered it necessary to set out clearly in RoP the procedures relating to such motions.

38. Members endorsed CRoP's recommendation in paragraphs 5 and 6 of the paper as well as the proposed amendment to Rule 46(1) of RoP.

**IX. Any other business**

Hon Albert CHENG's letter dated 9 December 2005 requesting the House Committee's agreement to raise an urgent question at the Council meeting on 14 December 2005

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39. The Chairman said that Mr Albert CHENG had written to the President to seek her permission, under Rule 24(4) of RoP, to ask an urgent question relating to The Link Real Estate Investment Trust (The Link REIT) at the Council meeting on 14 December 2005.

Action

40. Referring to Mr CHENG's letter to her, the Chairman said that rule 10 of the House Rules provided that, to assist the President in considering requests for asking urgent questions without the required notice, the Member concerned should, where practicable, first seek the agreement of the House Committee before submitting his urgent question to the Clerk to LegCo, together with a statement setting out the reasons for the request. The Chairman further said that in accordance with this rule, she had, very exceptionally, allowed Mr CHENG to seek the House Committee's agreement for his urgent question at this meeting.

41. Mr Albert CHENG sought Members' support for him to ask a question on the recent trading activities of The Link REIT units at the Council meeting on 14 December 2005, because the matter was urgent and of public importance.

42. Ms Emily LAU asked Mr Albert CHENG why the question had to be raised on 14 December 2005.

43. Mr Albert CHENG said that the matter was of an urgent nature because the unit price of The Link REIT was affected by the acquisition of The Link REIT units by various funds and every day mattered. Mr CHENG further said that the strategic investors and institutional investors had already acquired more than 80% of The Link REIT units, and a number of funds held more than 25% of the units issued. It was estimated that The Children Investment Fund Management alone had acquired more than 15% of the units. There was wide public concern that, according to the Offering Circular, unitholders holding 25% or more of the units issued could request for the conduct of a unitholders' meeting and for the removal of a Board Director of The Link Management Limited (The Link). There were rumours that these unitholders would try to gain control over the management of The Link, or force the Government to buy back the units from them at a high price.

44. Mr CHENG pointed out that there were recent reports that Mr Paul CHENG, Chairman of the Board of Directors of The Link, was also a member of the Deutsche Bank Asia Pacific Advisory Board, which was holding 5% of The Link REIT units. This was not disclosed in the Offering Circular, and there was public concern whether there was conflict of interest on the part of Mr Paul CHENG.

45. Mr Albert CHENG said that the Administration should clarify all these issues as soon as possible and advise LegCo whether there were ways to prevent institutional investors from gaining control of The Link. He considered that his raising an urgent question on the matter at the Council meeting on 14 December 2005 would provide an early opportunity for the Administration to make such clarifications.

Action

46. Ms Margaret NG agreed that the matter was urgent, as it affected the interests of many people in Hong Kong and there was also wide media interest in the matter. Ms NG considered that LegCo should not be silent on the matter. She supported Mr CHENG asking the urgent question, which would provide an early opportunity for the Administration to clarify the issues.

47. Mr LEUNG Kwok-hung supported Mr Albert CHENG's request. Mr LEUNG said that he and Mr CHENG were opposed to the divestment of the retail and car-parking facilities in public rental housing estates, and problems had now surfaced. Mr LEUNG added that the Administration should clarify the issues to the public as soon as possible.

48. Mr LAU Kong-wah said that the House Committee should consider Members' requests for raising urgent questions at Council meetings based on two criteria, i.e. whether the matter was so urgent that the question could not be raised at a later meeting, and whether the matter could be dealt with through other channels.

49. Mr LAU further said that based on the information provided in Mr CHENG's letter, he could not support his request as it did not meet the two criteria. Mr LAU pointed out that it was not uncommon for institutional investors to acquire a large number of units of a particular fund, such as the Tracker Fund. As regards the concern about the impact of the acquisition of a large number of The Link REIT units by institutional investors on tenants of shopping malls in the public housing estates, Mr LAU considered that the issues could be discussed in detail at an urgent meeting of the relevant Panel. Mr LAU added that it was not appropriate to react to rumours or media reports by raising urgent questions at Council meetings.

50. Mr Martin LEE supported Mr Albert CHENG raising the urgent question. Mr LEE considered that the Administration should address the public concern about the apparent conflict of roles of Mr Paul CHENG serving both as Chairman of the Board of Directors of The Link and as a member of the Deutsche Bank Asia Pacific Advisory Board. The issue had to be addressed urgently as Mr Paul CHENG's continued appointment in The Link might affect the interests of unitholders and the reputation of the Government. As regards the suggestion of holding a Panel meeting to discuss the issues, Mr LEE said that it was not necessary to confine discussion of issues of public importance to Panel meetings only.

51. Mr Fred LI said that the issues raised by Mr Albert CHENG were important and should be dealt with urgently. However, given the short time allowed for an oral question at a Council meeting, it would be more appropriate for the Panel on Financial Affairs to convene an urgent meeting to discuss the issues, and invite all Members to attend the discussion.

Action

52. Mr Jasper TSANG and Mr Howard YOUNG agreed that it would be more appropriate for the matter to be discussed at a special meeting of the Panel on Financial Affairs.

53. Mr Albert CHENG said that if Members agreed that the matter was urgent and of public importance, they should support him raising an urgent question on the matter at the Council meeting on 14 December 2005. Mr CHENG further said that his raising an oral question and the relevant Panel holding a special meeting on the matter were not mutually exclusive. Mr CHENG added that records of Council meetings were verbatim records, while records of Panel meetings were not.

54. Mr Martin LEE said that if members agreed that the matter raised by Mr Albert CHENG was urgent and important, they should not reject his request solely because there were other forums to discuss the matter. Mr LEE further said that Members should not be too strict in dealing with requests from Members for raising questions without the required notice.

55. Ms Emily LAU supported the relevant Panel holding a special meeting, preferably before 14 December 2005, to discuss the issues raised by Mr Albert CHENG. Ms LAU suggested that the Chairman of the relevant Panel could consider moving a motion on the matter for debate at a Council meeting after discussion by the Panel.

56. Mr Bernard CHAN, Chairman of the Panel on Financial Affairs, undertook to hold a special meeting of the Panel to discuss the issues relating to The Link REIT as soon as possible.

57. The Chairman put the proposal that the House Committee should give agreement for Mr Albert CHENG to ask an urgent question relating to The Link REIT at the Council meeting on 14 December 2005 to vote. The result was that 16 Members voted for the proposal, and 18 Members voted against the proposal.

58. The Chairman said that she would inform the President of the decision of the House Committee.

59. There being no other business, the meeting ended at 3:15 pm.