

立法會

# *Legislative Council*

LC Paper No. CB(2) 2029/05-06

Ref : CB2/H/5/05

## **House Committee of the Legislative Council**

### **Minutes of the 23rd meeting held in the Legislative Council Chamber at 2:30 pm on Friday, 12 May 2006**

#### **Members present :**

Hon Miriam LAU Kin-ye, GBS, JP (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 LUI Ming-wah, SBS, 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, SBS, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon LEUNG Yiu-chung  
Hon SIN Chung-kai, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, SBS, JP  
Dr Hon YEUNG Sum  
Hon LAU Chin-shek, JP  
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 Timothy FOK Tsun-ting, GBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, BBS, JP



Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Vivian KAM	Principal Council Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Ms Miranda HON	Chief Council Secretary (3)2
Ms Connie FUNG	Assistant Legal Adviser 3
Mr KAU Kin-wah	Assistant Legal Adviser 6
Ms Amy YU	Senior Council Secretary (2)3
Miss Lolita SHEK	Senior Council Secretary (2)7

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**I. Confirmation of the minutes of the 22nd meeting held on 28 April 2006**  
*(LC Paper No. CB(2) 1939/05-06)*

The minutes were confirmed.

**II. Matters arising**

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

2. The Chairman said that there was nothing special to report.

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

(a) **Legal Service Division report on subsidiary legislation gazetted on 28 April 2006 and tabled in Council on 3 May 2006**  
*(LC Paper No. LS 63/05-06)*

3. The Chairman said that only one item of subsidiary legislation, i.e. the Reserved Commodities Ordinance (Amendment of Schedules 1 and 2) Notice 2006, was gazetted on 28 April 2006 and tabled in Council on 3 May 2006.

4. Members did not raise any queries on this item of subsidiary legislation.

(b) **Legal Service Division report on subsidiary legislation gazetted on 4 May 2006 and tabled in Council on 10 May 2006**  
*(LC Paper No. LS 64/05-06)*

5. The Chairman said that there were 22 items of subsidiary legislation gazetted on 4 May 2006 and tabled in Council on 10 May 2006.

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6. Regarding the Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2006, the Legal Adviser said that the Legal Service Division was seeking clarification from the Administration on a number of technical and drafting points. A further report would be made, if necessary, after receiving the Administration's reply.

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

8. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 7 June 2006, or 28 June 2006 if extended by resolution.

**IV. Business for the Council meeting on 17 May 2006**

(a) **Questions**  
(*LC Paper No. CB(3) 539/05-06*)

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**

**Safety of United Nations and Associated Personnel Bill**

10. The Chairman said that the Administration had given notice to present the above Bill to the Council on 17 May 2006. The House Committee would consider the Bill at its meeting on 19 May 2006.

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

**Dentists Registration (Amendment) Bill 2005**

11. 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.

(d) **Government motion**

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

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(i) **the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2006; and**

(ii) **the Poisons List (Amendment) (No. 2) Regulation 2006**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 516/05-06 dated 27 April 2006.)*

*(LC Paper No. LS 62/05-06)*

12. The Chairman explained that the proposed resolution sought the Legislative Council (LegCo)'s approval to amend the Schedules to the Pharmacy and Poisons Regulations and the Poisons List in the Poisons List Regulations to impose control on four new medicines and relax the control of one medicine.

13. Members did not raise any objection to SHWF moving the proposed resolution at the Council meeting on 17 May 2006.

(e) **Members' motions**

(i) **Motion on "Financial assistance to patients of Severe Acute Respiratory Syndrome and their families"**

*(Wording of the motion issued vide LC Paper No. CB(3) 508/05-06 dated 26 April 2006.)*

(ii) **Motion on "Review on Urban Renewal Strategy"**

*(Wording of the motion issued vide LC Paper No. CB(3) 528/05-06 dated 4 May 2006.)*

14. The Chairman said that the above motions would be moved by Dr Fernando CHEUNG and Mr Alan LEONG respectively, and the wording of the motions had been issued to Members.

**V. The Chief Executive's Question and Answer Session on 18 May 2006**

15. The Chairman said that the Chief Executive (CE)'s Question and Answer (Q & A) Session would be from 3:00 pm to 4:30 pm. According to the Administration, there would not be any specific areas for focus. The Chairman invited Members to give suggestions on topics which they would like CE to cover.

16. Ms Emily LAU said that she would ask questions on the seminar held earlier in Beijing in commemoration of the 16th anniversary of the promulgation of the Basic Law.

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17. Dr YEUNG Sum said that he would raise with CE his concern that when LegCo was conducting an inquiry into a matter, the Administration should not conduct a separate inquiry into the same matter in parallel.

18. The Chairman said that she would convey Members' suggestions to CS.

**VI. Business for the Council meeting on 24 May 2006**

(a) **Questions**

*(LC Paper No. CB(3) 540/05-06)*

19. 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**

**Hazardous Chemicals Control Bill**

20. The Chairman said that the Administration had given notice to present the above Bill to the Council on 24 May 2006. The House Committee would consider the Bill at its meeting on 26 May 2006.

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

**Revenue Bill 2006**

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

(d) **Government motions**

(i) **Proposed resolution to be moved by the Secretary for the Environment, Transport and Works under the Road Traffic Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 533/05-06 dated 4 May 2006.)*

*(LC Paper No. LS 65/05-06)*

22. The Chairman said that the proposed resolution sought LegCo's approval to further extend, for five years up to 20 June 2011, the period during which the total number of registered public light buses (PLBs) was limited to 4 350.

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23. In response to Mr LEE Wing-tat, the Chairman said that the proposed resolution only concerned the limitation on the total number of registered PLBs.

24. Members did not raise any objection to the Secretary for the Environment, Transport and Works moving the proposed resolution at the Council meeting on 24 May 2006.

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

- **the Pharmacy and Poisons (Fee Revision) Regulation 2006; and**
- **the Pharmacists (Disciplinary Procedure) (Fee Reduction) Regulation 2006**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 534/05-06 dated 4 May 2006.)  
(LC Paper No. LS 66/05-06)*

25. The Chairman said that the proposed resolution sought LegCo's approval to revise the fees of 17 items specified in the Pharmacy and Poisons Regulations and the Pharmacists (Disciplinary Procedure) Regulations. The Chairman further said that the Panel on Health Services had been consulted on the proposed revision of fees. To address a Member's concern, the Administration had revised the proposals to increase the fees of three items by a larger magnitude.

26. Members did not raise any objection to SHWF moving the proposed resolution at the Council meeting on 24 May 2006.

**(iii) Proposed resolution to be moved by the Secretary for Health, Welfare and Food under the Radiation Ordinance relating to:**

- **the Radiation (Control of Radioactive Substances) (Fee Revision) Regulation 2006; and**
- **the Radiation (Control of Irradiating Apparatus) (Fee Reduction) Regulation 2006**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 535/05-06 dated 4 May 2006.)  
(LC Paper No. LS 67/05-06)*

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27. The Chairman said that the proposed resolution sought LegCo's approval to revise the fees of five items specified in the Radiation (Control of Radioactive Substances) Regulations and the Radiation (Control of Irradiating Apparatus) Regulations. The Chairman added that the Panel on Health Services had been consulted on the proposed revision of fees and did not raise any objection.

28. Members did not raise any objection to SHWF moving the proposed resolution at the Council meeting on 24 May 2006.

(e) **Members' motions**

(i) **Motion on "Legislating to regulate medical devices"**  
*(Wording of the motion issued vide LC Paper No. CB(3) 548/05-06 dated 11 May 2006.)*

(ii) **Motion on "Effective utilization of fiscal surplus"**  
*(Wording of the motion issued vide LC Paper No. CB(3) 549/05-06 dated 11 May 2006.)*

29. The Chairman said that the above motions would be moved by Mr LI Kwok-ying and Mr KWONG Chi-kin respectively, and the wording of the motions had been issued to Members.

30. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 17 May 2006.

**VII. Reports of Bills Committees and subcommittees**

(a) **Report of the Bills Committee on Construction Industry Council (No. 2) Bill**  

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*(LC Paper No. CB(1) 1448/05-06)*

31. Mr KWONG Chi-kin, Chairman of the Bills Committee, said that the Bills Committee supported the establishment of the Construction Industry Council (CIC) to coordinate and spearhead reforms to uplift the quality of the construction industry.

32. Mr KWONG further said that in response to members' views and concerns, the Administration had agreed to expand the functions of CIC, revise its mode of composition, increase the number of seats for the trade unions of construction workers in CIC, open up CIC meetings to the public, and provide a written undertaking that there would be no redundancy of serving staff of the



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Construction Industry Training Authority within two years from the setting up of CIC.

33. Mr KWONG added that the Bills Committee supported the Administration's Committee Stage amendments (CSAs) and the resumption of the Second Reading debate on the Bill on 24 May 2006.

34. The Chairman said that the deadline for giving notice of CSAs, if any, was Monday, 15 May 2006.

**(b) Report of the Subcommittee on Mutual Legal Assistance in Criminal Matters (Poland) Order and Mutual Legal Assistance in Criminal Matters (Israel) Order**  

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*(LC Paper No. CB(2) 1947/05-06)*

35. The Chairman said that the Subcommittee supported the Secretary for Security giving fresh notice to move the motions on the Mutual Legal Assistance in Criminal Matters (Poland) Order and the Mutual Legal Assistance in Criminal Matters (Israel) Order at a future Council meeting.

**VIII. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2) 1938/05-06)*

36. The Chairman said that there were nine Bills Committees and five subcommittees under the House Committee in action.

**IX. Letter dated 8 May 2006 from Hon Emily LAU to the Chairman of the House Committee regarding "value for money audits" procedures**

*(Letter dated 8 May 2006 from Hon Emily LAU to the Chairman of the House Committee (LC Paper No. CB(2) 1964/05-06(01))*

*(Letter dated 11 May 2006 from the Chairman of the Public Accounts Committee to the Chairman of the House Committee (LC Paper No. CB(2) 1983/05-06(01))*

37. Ms Emily LAU said that following the tabling of Report No. 45 of the Director of Audit, CE immediately appointed an independent committee of inquiry (independent committee) to inquire into the Sai Wan Ho Development, and following the tabling of Report No. 46 of the Director of Audit, the Secretary for Commerce, Industry and Technology (SCIT) immediately requested the Director of Broadcasting to submit a report within three months on the irregularities in Radio Television Hong Kong (RTHK) identified in the Report.

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38. Ms LAU further said that she had served on PAC for many years. According to the procedures agreed between the Administration and PAC in 1998, after the tabling of a Director of Audit's report in LegCo, the report would be referred to PAC. PAC would conduct hearings and publish its report within three months. A Government Minute commenting on the action which the Government proposed to take in respect of the report of PAC would be submitted to LegCo within three months of the laying of the report of PAC. Both the Administration and PAC would not comment on the audit findings before PAC tabled its report in Council, except at the public hearings of PAC.

39. Ms LAU pointed out that the agreed procedures had been adhered to by LegCo and the Administration for many years. She was concerned that the Administration failed to follow these procedures in the case of Reports No 45 and 46, which was detrimental to the relationship between the Administration and LegCo. Furthermore, the public was confused as the respective conclusions reached by the independent committee and PAC on the Sai Wan Ho Development differed, and yet the Administration said that it accepted both reports.

40. Ms LAU said that PAC did not necessarily accept the findings in a Director of Audit's report. The Administration should await the report of PAC before making its response to the audit findings. Ms LAU added that LegCo should urge the Administration to follow the agreed procedures.

41. Dr Philip WONG concurred with Ms Emily LAU. Dr WONG informed Members that PAC had written to CS on 2 May 2006 urging him to ensure that the Administration observed the arrangements agreed on 30 March 2000. Under the arrangements, government departments should not speak or confirm the audit investigations before tabling of the audit report. After tabling of the report but before public hearings of PAC, departments should refrain from initiating publicity to counter the audit findings. CS had replied on 11 May 2006 reiterating the Administration's commitment to uphold the agreed arrangements.

42. Dr WONG further said that in view of the wide public concern about the conclusions reached by the independent committee, PAC had issued a statement and held a press conference on 11 May 2006. PAC had also proposed that a motion should be moved by him, as Chairman of PAC, at the Council meeting on 17 May 2006 to reaffirm LegCo's support of the conclusions and recommendations of PAC on the Sai Wan Ho Development. Dr WONG requested Members' support for PAC's proposal.

43. The Chairman said that the House Committee should decide whether to recommend that a debate slot be allocated to Dr Philip WONG, as Chairman of PAC, for moving the motion on 17 May 2006. The Chairman further said that

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two debates on Members' motions had been scheduled for that Council meeting, and a CE's Q & A Session had been scheduled for 3:00 pm on 18 May 2006.

44. Dr YEUNG Sum supported PAC's proposal. Dr YEUNG said that the adverse comments made by the Director of Audit on the Building Authority's exercise of discretionary power on the Sai Wan Ho Development had shaken the civil service system. CE had appointed the independent committee because he had to do something. However, the Administration should not disregard the Council's conventions in its endeavours to achieve strong governance. Dr YEUNG pointed out that the public was confused as the conclusions reached by the independent committee and PAC differed, and yet the Administration accepted both reports. Dr YEUNG added that the way the Administration handled the matter had undermined LegCo's constitutional role in monitoring the work of the Government.

45. Mr LEE Wing-tat supported the allocation of a debate slot to Dr Philip WONG. Mr LEE said that the credibility of both LegCo and the Director of Audit was at stake. The debate should be held ahead of the other two debates on Members' motions with no legislative effect scheduled for the Council meeting on 17 May 2006, given the importance of the matter. Mr LEE suggested that CS should speak at the beginning and respond at the end of the motion debate.

46. Mr LAU Kong-wah, Mr SIN Chung-kai and Mr Abraham SHEK supported the allocation of a debate slot to Dr Philip WONG at the Council meeting on 17 May 2006, and that the debate should be held ahead of the other two debates on Members' motions scheduled for the same Council meeting. Mr LAU Kong-wah and Mr SIN Chung-kai further said that CS should respond at the end of the motion debate.

47. Mr Jeffrey LAM said that Members belonging to the Liberal Party supported PAC's proposal.

48. Ms Margaret NG supported PAC's proposal. She said that the debate should be held ahead of the other two debates on Members' motions, given that PAC was a standing committee of LegCo.

49. Dr Fernando CHEUNG said that it was difficult to say which motion, i.e. Dr WONG's motion moved on behalf of PAC or his motion on "Financial assistance to patients of Severe Acute Respiratory Syndrome and their families" moved on behalf of the Panel on Welfare Services, was more important. However, given the circumstances, he supported that the debate on Dr WONG's motion should be held first.

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50. Ms Emily LAU pointed out that at the press conference held by PAC on 11 May 2006, members of PAC had requested the Administration to indicate exactly which report it accepted, given the different conclusions made in the PAC Report and the independent committee's Report. However, this request was not reflected in the wording of the motion, which only urged the Administration to fully implement the recommendations of PAC. Ms LAU added that CS had already indicated in the Government Minute tabled in Council on 10 May 2006 that the Administration accepted the recommendations in the PAC Report.

51. Dr YEUNG Sum said that CS had explained that as the roles, functions, and focuses of PAC and the independent committee were different, the conclusions they reached were thus different. He agreed with Ms Emily LAU that LegCo should urge the Administration to clarify which report it accepted.

52. Dr Philip WONG said that the wording of the motion was agreed to by members of PAC. Dr WONG further said that although the recommendations made in the two reports were similar, the findings and conclusions were very different. If the Administration accepted the PAC Report and agreed to fully implement its recommendations, then it had to explain why it could accept the independent committee's Report at the same time.

53. Dr WONG added that he was ready to discuss with Members if they considered it necessary to amend the wording of the motion to better reflect LegCo's concern. He hoped that Members would not move amendments to the motion in order to demonstrate LegCo's unanimous support for the conclusions and recommendations of PAC. Mr Abraham SHEK concurred with Dr WONG.

54. The Chairman proposed that –

- (a) a debate slot be allocated to Dr Philip WONG at the Council meeting on 17 May 2006, and the slot would not be counted as Dr WONG's own slot;
- (b) the debate on Dr WONG's motion should be held ahead of the other two debates on Members' motions with no legislative effect scheduled for the same Council meeting;
- (c) CS should speak at the beginning and respond at the end of the debate; and
- (d) the speaking time limits of 15 minutes for the mover and seven minutes for other Members should apply.

Members agreed.

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55. The Chairman added that if Members wished to move amendments to the motion, they should seek the President's approval for waiving the required notice.

56. Mr LAU Kong-wah said that the "value for money audits" procedures referred to by Ms Emily LAU in her letter dated 8 May 2006 did not preclude the Administration from appointing committees of inquiry or conducting internal reviews before PAC completed its work and tabled its report in Council.

57. Mr LAU further said that on some occasions, it might be necessary for the Administration to take certain remedial actions expeditiously and not to wait until PAC had completed its work. For instance, in the case of Report No. 46 of the Director of Audit, it was appropriate for the Administration to set up a high level internal audit team to ensure the implementation of the audit recommendations by RTHK.

58. Ms Emily LAU said that it had become a convention that the Administration would not conduct a separate inquiry in parallel when PAC was conducting hearings and had yet to table its report. Ms LAU further said that she did not object to the setting up of the audit team in the case of Report No. 46. She was concerned that SCIT had requested RTHK to submit a report, within three months, on the irregularities identified by the Director of Audit, and the conclusions of that report might differ from those of the report of PAC. Ms LAU reiterated that the Administration should follow the convention; otherwise, the public would be confused as in the case of the Sai Wan Ho Development, and the credibility of PAC and the Director of Audit would be undermined.

59. Dr YEUNG Sum said that while the Administration had the authority to conduct its own inquiries, it should respect the convention. If the Administration considered it necessary to introduce changes to the convention or procedures, it should discuss with LegCo. Dr YEUNG suggested that the Chairman should convey Members' concerns to CS.

60. Mr LAU Kong-wah said that the investigation being conducted by the Director of Broadcasting was an internal review, which was different in nature from the inquiry conducted by the independent committee into the Sai Wan Ho Development. He considered it reasonable for SCIT, being the supervisor of the Director of Broadcasting, to request the latter to provide a report to him so as to facilitate CS to respond to the report of PAC.

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61. Mr LAU further said that it was more appropriate for PAC to discuss with the Administration the “value for money audits” procedures, as the existing procedures had been agreed between them. Mr LAU requested the Chairman to convey the various views expressed by Members to CS.

62. Mr SIN Chung-kai said that it might be necessary for PAC to discuss with the Administration what the latter should and should not do before PAC tabled its report in Council, and whether changes should be made to the existing “value for money audits” procedures.

63. The Chairman said that she would convey Members’ views to CS.

**X. Any other business**

64. There being no other business, the meeting ended at 3:20 pm.