

立法會
Legislative Council

LC Paper No. CB(2) 481/06-07

Ref : CB2/H/5/06

House Committee of the Legislative Council

**Minutes of the 6th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 24 November 2006**

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, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, 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 Bernard CHAN, GBS, 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
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, 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

Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Constance LI	Principal Council Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Council Secretary (1)2
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Ms Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Ms Amy YU	Senior Council Secretary (2)3

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I. Confirmation of the minutes of the 5th meeting held on 17 November 2006
(*LC Paper No. CB(2) 424/06-07*)

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

Legal Service Division report on subsidiary legislation gazetted on 17 November 2006 and tabled in Council on 22 November 2006
(*LC Paper No. LS 12/06-07*)

3. The Chairman said that a total of seven items of subsidiary legislation were gazetted on 17 November 2006.

4. Regarding the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2006, the Chairman said that it came within the terms of reference of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions. She suggested that the Regulation be referred to the Subcommittee. Members agreed.

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5. As regards the Fugitive Offenders (Germany) Order and the Fugitive Offenders (Republic of Korea) Order made under the Fugitive Offenders Ordinance, the Chairman said that the Ordinance restricted the power of the Legislative Council (LegCo) to repealing the Orders only.

6. Mr James TO considered that a subcommittee should be formed to study the two Orders.

7. The Chairman proposed that a subcommittee be formed to study the two Orders in detail. Members agreed. The following Members agreed to join: Ms Margaret NG, Mr James TO, Mr LAU Kong-wah and Ms Miriam LAU.

8. Members did not raise any queries on the other four items of subsidiary legislation.

IV. Further report by the Legal Service Division on Banking (Capital) Rules and Banking (Disclosure) Rules gazetted on 27 October 2006

(LC Paper No. LS 13/06-07)

[Previous papers:

Paragraphs 1 to 14 of LC Paper No. LS 6/06-07 issued vide LC Paper No. CB(2) 248/06-07 dated 2 November 2006; and

Paragraph 7 of the minutes of the 3rd House Committee meeting on 3 November 2006 (LC Paper No. CB(2) 294/06-07) issued vide LC Paper No. CB(2) 312/06-07 dated 8 November 2006]

9. The Chairman said that at the House Committee meeting on 3 November 2006, Members were informed that the Legal Service Division was continuing scrutiny of the above Rules and would provide a further report if necessary.

10. The Chairman further said that the Administration had agreed to make technical amendments to improve the drafting of the Rules and had given notice to move two motions to amend the Rules at the Council meeting on 29 November 2006. Should Members decide to form a subcommittee to examine the Rules, the Administration would withdraw its notice for moving the motions.

11. Members noted the Administration's amendments and did not raise any query.

V. Further business for the Council meeting on 29 November 2006

Questions

(LC Paper No. CB(3) 147/06-07)

12. The Chairman said that Mr James TO had replaced his previous oral question.

VI. Business for the Council meeting on 6 December 2006

(a) Questions

(LC Paper No. CB(3) 148/06-07)

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

14. Regarding the oral question to be raised by Dr KWOK Ka-ki, Mr James TO suggested that textual improvements could be made. Dr KWOK said that he was finalising the wording of the question and would follow up on Mr TO's suggestion.

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

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

(c) Government motion

Proposed resolution to be moved by the Secretary for Security under the Mutual Legal Assistance in Criminal Matters Ordinance relating to the Mutual Legal Assistance in Criminal Matters (Germany) Order

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 137/06-07 dated 16 November 2006.)

(LC Paper No. LS 11/06-07)

16. The Chairman said that the proposed resolution was for seeking the approval of LegCo for the Mutual Legal Assistance in Criminal Matters (Germany) Order.

17. Mr James TO considered that a subcommittee should be formed to study the proposed resolution.

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18. The Chairman proposed that a subcommittee be formed to study the proposed resolution. Members agreed. The following Members agreed to join: Mr Albert HO, Mr James TO, Mr Jasper TSANG and Ms Miriam LAU.

19. The Chairman said that the Administration would be requested to withdraw its notice for moving the proposed resolution.

(d) **Members' motions**

(i) **Motion on "Promoting the development of party politics"**
(Wording of the motion issued vide LC Paper No. CB(3) 157/06-07 dated 22 November 2006.)

(ii) **Motion on "Strengthening Hong Kong's capability in immediate transshipment"**
(Wording of the motion issued vide LC Paper No. CB(3) 156/06-07 dated 22 November 2006.)

20. The Chairman said that the above motions would be moved by Ms Margaret NG and Mr CHAN Kam-lam respectively, and the wording of the motions had been issued to Members.

21. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 29 November 2006.

VII. Reports of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Prevention of Cruelty to Animals (Amendment) Bill 2006**

(LC Paper No. CB(2) 425/06-07)

22. Mr James TIEN, Chairman of the Bills Committee, said that while the Bills Committee was supportive of the need to increase the penalty levels for offences relating to cruelty to animals, members unanimously considered the proposed levels of penalty insufficient to have deterrent effect. After deliberations with the Bills Committee, the Administration agreed to take on board members' proposal to increase the maximum fine from \$100,000 to \$200,000 and the maximum imprisonment from one to three years in the principal Ordinance. The Administration also agreed to increase the maximum fine prescribed in the Regulations from \$25,000 to \$50,000.

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23. Mr TIEN further said that apart from increasing the penalty levels, the Administration had undertaken to conduct a comprehensive review of the Ordinance and related laws and report the outcome to the Panel on Food Safety and Environmental Hygiene in one year's time.

24. Mr TIEN added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 6 December 2006 and the Committee Stage amendments to be moved by the Administration.

(b) Report of the Subcommittee on Six Items of Subsidiary Legislation Relating to the Relocation of Juveniles to the Tuen Mun Children and Juvenile Home

25. Mr Albert HO, Chairman of the Subcommittee, said that the Subcommittee had held one meeting to consider the six items of subsidiary legislation. Another meeting would be scheduled shortly to clarify certain issues.

26. Mr HO further said that as the deadline for amending the six items of subsidiary legislation was 29 November 2006, the Subcommittee agreed that a motion should be moved by him in his capacity as the Subcommittee Chairman at the Council meeting on 29 November 2006 to extend the scrutiny period of the subsidiary legislation to 20 December 2006.

(c) Report of the Subcommittee to Study Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004 (Commencement) Notice

(LC Paper No. CB(1) 353/06-07)

27. Mr Albert HO, Chairman of the Subcommittee, said that the Subcommittee had held a meeting with the Administration and the Hong Kong North West Express Limited, i.e. the tenant of the Tuen Mun Ferry Pier for providing cross-boundary ferry services. The Subcommittee had expressed concern about the slippage in the provision of cross-boundary ferry services to Macau as originally planned by the tenant, and had urged the tenant to provide such services as early as possible. The Subcommittee had also reviewed the utilisation rate of the Tuen Mun Ferry Terminal and the provision of connecting pedestrian facilities to the terminal.

28. Mr HO added that the Subcommittee supported the Commencement Notice and would not move any amendments.

VIII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 423/06-07)

29. The Chairman said that there were eight Bills Committees and eight subcommittees under the House Committee in action.

IX. Appointment, operation and servicing of subcommittees

(LC Paper No. CB(2) 422/06-07)

[Previous paper:

Paragraphs 47 to 55 of the minutes of the 32nd House Committee meeting on 6 October 2006 (LC Paper No. CB(2) 14/06-07) issued vide LC Paper No. CB(2) 23/06-07 dated 11 October 2006]

30. Secretary General (SG) briefed Members on the LegCo Secretariat (Secretariat)'s review of the appointment, operation and servicing of subcommittees and its recommendations on the broad principles, mode of operation and maximum number of subcommittees as detailed in the paper.

31. Mrs Selina CHOW thanked the Secretariat for conducting the review and making the recommendations. She considered that as the issues involved were complex, Members needed time to study the subject matter. Since in-depth discussion at the meeting was not possible and as the matter related to the operation of committees, she was of the view that it could be referred to the Committee on Rules of Procedure (CRoP) for detailed study, using the paper as the basis for discussion. The deliberations of the CRoP should be reported to the House Committee for consideration.

32. Mr LEE Wing-tat said that Members belonging to the Democratic Party generally agreed with the broad principles recommended in the paper. He was of the view that subcommittees should complete their work within a specified and reasonable time frame as this was an effective use of Members' time and the Secretariat's resources. Mr LEE agreed with the proposed normal time frame of six months for completion of a subcommittee's work and the proposal for a queuing system for subcommittees appointed to study specific issues. Mr LEE, however, considered that the maximum number of such subcommittees could be 10 instead of eight. While he had no objection to referring the matter to the CRoP for further study, he considered it necessary for Members to agree on the broad principles at the meeting.

33. Ms Emily LAU considered it important to have Members' involvement in the review process. She opined that as the crux of the matter was resources, the matter could be examined by The Legislative Council Commission (LegCo Commission). Ms LAU added that if the existing resources of the Secretariat were insufficient to support the work of Members, additional resources should

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be sought. Noting the duration of operation of subcommittees on policy issues appointed in the past five years as set out in Appendix III of the paper, Ms LAU was concerned about the proposed time frame of six months for completion of a subcommittee's work. She considered that Members' work should not be constrained by a particular time frame.

34. The Chairman drew Members' attention to Rule 74(1) of the Rules of Procedure (RoP) which provided that the CRoP was to review, among other things, the committee system of the Council. The Chairman said that it was within the ambit of the CRoP to examine the appointment, operation and servicing of subcommittees.

35. Ms Margaret NG agreed with the proposed broad principles for the appointment and operation of subcommittees. She believed that the limitations set out in the paper were based on the Secretariat's reasonable assessment of its available manpower resources. She stressed that the work of LegCo Members should not be constrained by the resources allocated by the Administration, and additional resources should be sought if deemed necessary. Ms NG shared Ms Emily LAU's view that the crux of the matter might be resources and hence The LegCo Commission, rather than the CRoP, appeared more appropriate for taking up the matter.

36. Ms Margaret NG also drew Members' attention to the duration of operation of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions. As Chairman of the Subcommittee, Ms NG explained that the Subcommittee had not met for many months as it was awaiting the response from the Administration. This had accounted for the long duration of the Subcommittee. Ms NG added that subcommittees should report such situations to the House Committee in future, and flexibility could then be exercised when considering a proposed extension of a subcommittee's duration of operation. Moreover, manpower resources could be redeployed during the period when a subcommittee was not in active work.

37. Mr LAU Kong-wah supported the proposed principles of a specified time frame for completion of work and the maximum number of subcommittees to be serviced as in the case of Panels. However, he was concerned about the proposed time frame of six months and suggested building in some flexibility by extending the normal time frame from six months to, say, 12 months in certain circumstances if warranted.

38. Mr Jasper TSANG said that whether the matter should be discussed by the CRoP or The LegCo Commission depended on the focus and concern of Members. If Members' concern was on the adequacy or otherwise of the Secretariat's resources in coping with the work, The LegCo Commission

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should examine the matter. On the other hand, if Members' concern was on rationalising their work within the available resources, it would then be for the CRoP to study how the committee system could work more effectively.

39. Mrs Selina CHOW pointed out that there was always a limit on resources, be it Members' time, meeting venue or the Secretariat's manpower. Mrs CHOW considered it appropriate for the matter to be discussed first by the CRoP. Should the CRoP consider it necessary to seek more resources for the operation of the committee system, the matter could then be followed up by The LegCo Commission.

40. The Chairman proposed that the matter be referred to the CRoP for further study. Members agreed.

41. Ms Emily LAU was concerned about the criteria to be adopted by the CRoP in its study of subcommittees. Mr Jasper TSANG, in his capacity as Chairman of the CRoP, responded that the CRoP would examine the existing arrangements within the existing resources. He said that if issues involving major principles arose during the study process, the CRoP would seek the views of the House Committee. Should the CRoP arrive at the view that the crux of the matter was resources, it would also report to the House Committee for consideration of referral of the matter to The LegCo Commission.

42. Mr LAU Kong-wah and Ms Margaret NG agreed with Mr Jasper TSANG's view.

43. Ms Emily LAU was concerned with whether new subcommittees could be formed in the meantime before the CRoP completed its study.

44. SG responded that the status quo in respect of the appointment and servicing of subcommittees would be maintained, pending the outcome of the study by the CRoP. If Members considered it necessary to appoint subcommittees to study important issues, the Secretariat would assess whether it could cope with the work with the existing manpower resources. If necessary, the Secretariat could deploy resources to appoint additional staff.

X. Meetings with leaders of Central Government visiting Hong Kong

(Letter dated 20 November 2006 from Hon Emily LAU Wai-hing to the Chairman of the House Committee (LC Paper No. CB(2) 438/06-07(01))

[Previous papers:

Letter dated 8 July 1999 from the Chairman of the House Committee to the Chief Executive (CE) (LC Paper No. CB(2) 438/06-07(02));

Reply dated 16 July 1999 from the Private Secretary to CE to the Chairman of the House Committee (LC Paper No. CB(2) 438/06-07(03));

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*Letter dated 4 October 1999 from the Chairman of the House Committee to CE (LC Paper No. CB(2) 438/06-07(04)); and
Reply dated 15 October 1999 from the Private Secretary to CE to the Chairman of the House Committee (LC Paper No. CB(2) 438/06-07(05))]*

45. Ms Emily LAU referred Members to the correspondences between the then Chairman of the House Committee and the Administration in 1999 regarding proposed meetings with leaders of the Central Government visiting Hong Kong. Ms LAU pointed out that at the request of Members, the Administration had undertaken to convey to the Central Government Members' wish to meet with visiting national leaders in future.

46. On behalf of the Pan-democratic Members, Ms LAU proposed to follow up on the Administration's undertaking in 1999 for conveying to the Central Government Members' wish to meet with visiting leaders, and to urge the Government of the Hong Kong Special Administrative Government (HKSAR) to convey Members' wish to meet with Mr WU Bangguo, Chairman of the Standing Committee of the National People's Congress (NPCSC) during his visit to Hong Kong in early December 2006. Ms LAU stressed that although LegCo Members had been invited to dinner with Mr WU on 2 December 2006 hosted by the Chief Executive, her concern was not on attending ceremonial or social functions organised for the national leaders. She said that the Pan-democratic Members were asking for a formal meeting with Mr WU for the purpose of discussing issues of public concern.

47. Mr LEE Wing-tat said that Members belonging to the Democratic Party supported Ms LAU's proposals. Mr LEE pointed out that it was not infrequent for LegCo Members to meet with consuls and visiting members and even speakers of parliaments of overseas jurisdictions. Given that any change to the political structure in the HKSAR would involve the NPCSC and as Mr WU was its Chairman, he considered it necessary to meet and communicate with Mr WU in particular on issues relating to the constitutional development of the HKSAR.

48. Mr LAU Kong-wah indicated support for Ms LAU's proposals as there was precedent. He said that enhancing communication between LegCo and the Central Government was beneficial to Hong Kong.

49. Mr James TIEN said that Members belonging to the Liberal Party supported Ms LAU's proposals.

50. The Chairman said that she would write to the Chief Executive to relay Members' requests.

XI. Any other business

Proposal from Hon Fred LI to move a motion for adjournment under Rule 16(4) at the Council meeting on 29 November 2006 for the purpose of debating the following issue: The spate of food safety incidents which have occurred recently in Hong Kong, including the sale in Hong Kong of egg products containing Sudan dye and turbot fish with excessive antibiotic residues from the Mainland, thereby posing serious hazards to public health.

(Letter dated 23 November 2006 from Hon Fred LI Wah-ming to the Chairman of the House Committee issued vide LC Paper No. CB(2) 457/06-07 dated 23 November 2006)

51. The Chairman said that Mr Fred LI proposed to move a motion for adjournment under Rule 16(4) of RoP at the Council meeting on 29 November 2006, for the purpose of enabling Members to speak on the recent spate of food safety incidents. The Chairman further said that the duration of an adjournment debate would be kept within one hour, with 45 minutes for speeches by Members and 15 minutes for reply by the designated public officer.

52. Mr Fred LI said that there was wide public concern over the recent spate of food safety incidents involving the detection of harmful substances in hen eggs, duck eggs and turbot fish imported from the Mainland. There was also grave public concern that some Government officials might have withheld information from the public. Although the Panel on Food Safety and Environmental Hygiene (the Panel) had scheduled a special meeting on 30 November 2006 to discuss the matter, he considered it necessary to hold an adjournment debate at the Council meeting on 29 November 2006 to enable all Members to express their views on the matter. It would also provide an opportunity for the Secretary for Health, Welfare and Food (SHWF) to respond to areas of concern raised by Members and enable the proceedings to be recorded in the Hansard. Mr LI further said that Members could follow up on the Administration's response made at the adjournment debate immediately at the special Panel meeting. Mr LI added that the proposed adjournment debate was neutrally-worded, and appealed to Members to support his proposal.

53. Mr Tommy CHEUNG, Chairman of the Panel, said that in order to allow sufficient time for discussion, the special meeting of the Panel had been extended from one to two hours and could be further extended to three hours if necessary. Non-Panel members had been invited to the meeting and SHWF had agreed to attend the meeting personally. Mr CHEUNG explained that as the proposed adjournment debate would be held only one day before the scheduled Panel meeting and there was no opportunity for dialogue between Members and the Administration during the adjournment debate, Members

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belonging to the Liberal Party considered it more appropriate for the matter to be discussed first at the Panel meeting. Should Members consider it necessary to follow up the matter further after the Panel meeting, the Panel could propose a motion for debate at a Council meeting.

54. Mr LAU Kong-wah said that as an adjournment debate was limited to only one hour, he agreed with Mr CHEUNG that the matter should first be discussed by the Panel at the special meeting and a motion debate could follow if necessary. This would allow ample time for Members to express their views. Mr LAU further said that with relevant information being furnished by the Administration at the Panel meeting and if a motion debate was indeed proposed, the debate would be more constructive and the motion could also be so worded as to contain a stance.

55. Mr Abraham SHEK indicated support for the proposal of the Liberal Party to discuss the matter at the Panel meeting first.

56. Mr Fred LI said that he had considered various options on how best to proceed with the matter. Mr LI reckoned that there was no conflict between holding an adjournment debate on 29 November 2006 and convening the special Panel meeting on the following day. He stressed his concern about food safety and considered it of utmost importance to respond quickly to the incidents. Mr LI added that a slot would have to be bid for moving a motion for debate, and the two debate slots for the Council meeting on 6 December 2006 had already been allocated.

57. Mr WONG Yung-kan said that the Democratic Alliance for the Betterment and Progress of Hong Kong was very concerned about food safety and would step up liaison with the Mainland in this respect. Given that the special Panel meeting would be held only one day after the proposed adjournment debate and the food safety problem could not be resolved overnight, Mr WONG supported the proposal for the matter to be discussed first at the Panel meeting; a motion debate on the matter could be held at the following Council meeting if considered necessary by the Panel. Mr WONG added that he had just received news about the recall of mud carp.

58. Ms Emily LAU said that she supported Mr Fred LI's proposal to debate the matter at the Council as soon as possible. Ms LAU opined that if Mr LI's proposal was not supported by the House Committee, the Panel should propose a motion with a stance for debate at the Council meeting following the Panel meeting. Ms LAU added that the wording of the motion might also include condemnation of certain Government officials if wrong doing was established.

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59. Ms Audrey EU said that the spate of events had revealed problems with the mechanism for monitoring food safety. She supported discussion of the matter as early as possible in the form of a motion debate at one or even more Council meetings in view of the serious consequences of food safety incidents. Motion debates would be recorded in the Hansard and were very different from motions moved at Panel meetings. Ms EU further opined that LegCo Members should accommodate requests made by individual Members to discuss issues of concern as far as possible. She supported Mr Fred LI's proposal, and saw no conflict between the adjournment debate and the special Panel meeting.

60. Ms Margaret NG also indicated support for Mr LI's proposal. Ms NG considered it important for the matter to be debated at a Council meeting as, apart from the Hansard record, the Administration would be able to let the public know how it would handle the matter.

61. Mr James TIEN said that food safety was of concern to all walks of life. He pointed out that it was only a difference of several hours between moving the proposed adjournment debate on Wednesday evening and holding the special Panel meeting on Thursday morning. Given the limited time of an adjournment debate, he considered it more appropriate for the matter to be discussed at the Panel meeting. Mr TIEN added that depending on the discussion of the Panel, a motion could be moved at the Panel meeting and a motion for debate at a Council meeting could also be proposed should the Panel consider this necessary. However, he was of the view that it was too early to decide on the wording of the motion at that point in time.

62. Mr WONG Kwok-hing supported Mr Fred LI's proposal and considered it necessary to discuss the matter as early as possible. Mr WONG said that as the matter was both urgent and of wide public concern, it was too late for the Panel to discuss the matter only on 30 November 2006.

63. Mr LEE Wing-tat said that he did not see any conflict between the proposed adjournment debate and the special Panel meeting. He shared Mr James TIEN's view that food safety was a common concern to all. Mr LEE requested Mr Tommy CHEUNG to advance the date of the special Panel meeting.

64. Mr Tommy CHEUNG responded that the date of the meeting was fixed taking into account the availability of Members and the Government officials concerned. Mr CHEUNG said that he would discuss with the Panel Clerk to see if the special meeting could be advanced.

65. The Chairman put to vote Mr Fred LI's proposal to move a motion for adjournment under Rule 16(4) at the Council meeting on 29 November 2006 for the purpose of debating the recent spate of food safety incidents. Sixteen

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Members voted in favour of the proposal and 19 Members voted against it, having regard to the special meeting of the Panel scheduled for 30 November 2006. The Chairman declared that Mr LI's proposal was not supported by the House Committee.

66. The meeting ended at 3:32 pm.

Council Business Division 2
Legislative Council Secretariat
29 November 2006

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