

立法會
Legislative Council

LC Paper No. CB(2) 704/07-08

Ref : CB2/H/5/07

House Committee of the Legislative Council

**Minutes of the 8th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 14 December 2007**

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
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
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, SBS, JP
Hon Bernard CHAN, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum, JP
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 TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, 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)
Mr Simon WONG	Chief Public Information Officer
Ms Anita SIT	Chief Council Secretary (1)4
Miss Polly YEUNG	Chief Council Secretary (1)5
Mrs Sharon TONG	Chief Council Secretary (2)1
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Timothy TSO	Assistant Legal Adviser 2
Ms Amy YU	Senior Council Secretary (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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I. Confirmation of the minutes of the 7th meeting held on 7 December 2007
(*LC Paper No. CB(2) 581/07-08*)

The minutes were confirmed.

II. Matters arising

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

Number of Bills Committee slots

2. The Chairman said that she had informed CS that there were currently four vacant Bills Committee slots. Even with the scheduled introduction of the Legislative Council (Amendment) Bill 2007 and Prevention and Control of Disease Bill on 19 December 2007 and the formation of Bills Committees on these two bills, there would still be two vacant slots. She had urged the early introduction of the bills in the Legislative Programme 2007-2008. CS had responded that he was mindful of the desirability of early introduction of bills and had reminded the bureaux concerned.

Relationship between the Legislative Council (LegCo) and the Administration

3. The Chairman further said that CS had reiterated that the Administration was anxious to enhance the working relationship and cooperation with LegCo. One of the measures towards this objective was for CS to meet with Members regularly. CS planned to attend a meeting of the House Committee early next year and would arrange for a date to be fixed as soon as possible.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 7 December 2007 and tabled in Council on 12 December 2007

(LC Paper No. LS 23/07-08)

4. The Chairman said that only one item of subsidiary legislation, i.e. the Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2007, was gazetted on 7 December 2007 and tabled in Council on 12 December 2007.
5. Members did not raise any queries on this item of subsidiary legislation.
6. The Chairman reminded Members that the deadline for amending this item of subsidiary legislation was 9 January 2008.

IV. Report of Bills Committees and subcommittees

Report of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2007

(LC Paper No. CB(1) 420/07-08)

7. Mr CHAN Kam-lam, Chairman of the Bills Committee, said that in principle the Bills Committee supported the Bill which sought to implement various proposals recommended by the Mandatory Provident Fund Schemes Authority (MPFA) to improve the operation and regulation of the Mandatory Provident Fund (MPF) System.
8. Mr CHAN reported that the Bills Committee had held five meetings to discuss the policy and drafting aspects of the proposals in the Bill. The Bills Committee had also considered the views of some 20 employer and employee bodies and professional organizations. He referred Members to the Bills Committee's report for details of its deliberations, and said that the Administration would move a number of Committee Stage amendments (CSAs) to address the concerns raised by members.
9. Mr CHAN further reported that during the deliberations of the Bills Committee, members had reiterated their ongoing concerns about the existing MPF System and had made a number of suggestions for improvement, including the imposition of criminal and civil liabilities on an employer who had failed to enroll an employee in a MPF scheme and to make MPF contributions for the employee, increasing the penalty on an employer defaulting MPF payment, and allowing employees to choose their own MPF

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schemes. The Bills Committee noted that the Administration would introduce shortly another amendment bill to address some of these issues.

10. Mr CHAN added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 9 January 2008. The Bills Committee also supported the CSAs to be moved by the Administration and would not move any CSAs.

11. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 29 December 2007.

V. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 582/07-08)

12. The Chairman said that there were 11 Bills Committees, five subcommittees under the House Committee and seven subcommittees under Panels in action.

VI. Activation of the Subcommittee on Police's Handling of Searches of Detainees under the Panel on Security

(LC Paper No. CB(2) 583/07-08)

13. Mr LAU Kong-wah, Chairman of the Panel on Security (the Panel), said that the Panel had discussed the subject of the Police's practices regarding handling of searches of detainees at its meetings on 30 October and 4 December 2007 and had received views from deputations. At its meeting on 4 December 2007, the Panel decided by a vote of six to four to appoint a Subcommittee on Police's Handling of Searches of Detainees (the Subcommittee). Information relating to the Subcommittee's terms of reference, work plan and time frame for completion of work was set out in Appendix I to the paper. In accordance with the arrangements agreed by Members, the House Committee's approval was sought for the activation of the Subcommittee.

14. Mr LAU further said that in the morning of the day of the meeting, the Secretary for Security provided to the Panel Clerk information concerning, inter alia, the progress of the relevant complaint cases. The Panel was informed that the Police had undertaken to conduct a two-stage review of their existing practices regarding handling of searches of detainees. In stage one, notwithstanding the hearing of the Lee Tung Street court case scheduled for July 2008, the Police would review what immediate improvement measures they could implement in the interim without jeopardizing the court proceedings. The Police planned to complete the stage-one review in three months and

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would inform the Panel of their findings. In stage two, upon the conclusion of legal proceedings on the court case, the Police would consider whether additional measures were warranted to further improve the handling of searches of detainees.

15. In response to Dr Philip WONG, Mr LAU clarified that the Subcommittee was not a select committee but a subcommittee appointed by the Panel.

16. Mr LEUNG Kwok-hung said that at the Panel meeting on 4 December 2007, the Police informed members that of the 355 persons who were arrested on the same day as the group of protesters who attempted to stop the demolition work at Lee Tung Street, the 155 who were granted bail were suspected of such offences as arson, inflicting grievous bodily harm and triad membership. However, the protesters who were accused of the relatively lesser offence of obstruction of a public place were refused bail. As such a way of handling bail application was rather unusual, some Panel members considered it necessary to appoint a subcommittee to look into the matter.

17. Mr LEUNG further said that there was prima facie evidence of abuse of power on the part of the Police. He felt that the Police was conducting the review because the Security Bureau had recognized the seriousness of the matter. While welcoming the Administration's decision, he considered it necessary for LegCo to investigate into the matter in parallel with the Administration. He appealed to Members to support the appointment of the Subcommittee.

18. The Chairman reminded Members that the Subcommittee had already been appointed by the Panel, and the House Committee was requested to decide whether the Subcommittee should be activated. In considering the activation of the Subcommittee, Members should take into account the number of existing and anticipated committees and the availability of resources in the Secretariat to service the Subcommittee and other committees.

19. In response to Ms Emily LAU, the Chairman explained the agreed arrangements for the appointment, operation and servicing of subcommittees. In accordance with the decision of the House Committee on 2 March 2007, the maximum number of subcommittees on policy issues and Council business other than subsidiary legislation, other instruments and senior judicial appointments should be eight. When eight such subcommittees were in operation, a waiting list would be formed for newly appointed subcommittees.

20. The Chairman pointed out that currently, a total of 12 subcommittees on policy issues were in operation. As the number of subcommittees on policy issues in operation had exceeded eight, the Subcommittee was put on the

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waiting list, and the House Committee was invited to consider whether the Subcommittee should be activated given that there were vacant Bills Committee slots. The Chairman further said that 11 Bills Committees were in action and two new Bills Committees were expected to be formed shortly. She referred Members to the paper prepared by the Secretariat (LC Paper No. CB(2)583/07-08) for detailed information on the existing and anticipated workload of the Secretariat in the next three months. The Chairman stressed that the availability of resources of the Secretariat to service the Subcommittee was one of the factors to be taken into account by the House Committee when considering whether the Subcommittee should be activated.

21. Mr LAU Kong-wah enquired about the other factors which should be taken into account by the House Committee in considering the activation of subcommittees.

22. At the invitation of the Chairman, Assistant Secretary General 2 (ASG2) referred Members to paragraph 2 of LC Paper No. CB(2)583/07-08, and said that pursuant to the arrangements agreed by the House Committee in March 2007, the following factors should be taken into account in considering the activation of subcommittee(s) on the waiting list –

- (a) the number of vacant slots for Bills Committees;
- (b) the number of bills likely to be introduced in the Council in the next three months;
- (c) the number of subcommittees on subsidiary legislation already or likely to be appointed by the House Committee and by Bills Committees; and
- (d) the availability of resources in the Secretariat.

23. Ms Emily LAU expressed support for the activation of the Subcommittee. She considered it ridiculous for the Subcommittee to have been appointed but not activated. Referring to the recent visit conducted by the Panel to the WaterFront Police Station to better understand the procedures for handling searches of arrested persons, she expressed concern about the lack of criteria for strip searches and the unclear records in this regard kept by the Police. Members were told that a strip search could be recorded in either the Police's Communal Information System or the notebook of the Sergeant who authorized the search. She said that the Police were unable to provide the relevant statistics to members. Given that strip searches were insulting and in the face of allegations that the Police had used strip searches to deter protests, she considered it necessary for the Subcommittee to look into the matter to prevent any possible abuse of power on the part of the Police. Although the

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Police had undertaken to conduct a review on their existing practices regarding handling of searches of detainees, it was uncertain whether all the issues of concern identified would be covered in the review.

24. Ms LAU further said that at the Panel meeting, she had suggested the appointment of a select committee to investigate into the matter. Nevertheless, she had agreed to the appointment of the Subcommittee under the Panel instead so that members could commence work early. She appealed to Members to support the activation of the Subcommittee.

25. Ms Margaret NG echoed Ms Emily LAU's view on the need to activate the Subcommittee expeditiously without delay. She pointed out that the Lee Tung Street incident had aroused grave public concern about the Police's power and the human rights of detainees, and there was urgency in discussing these issues. Regarding the availability of resources in the Secretariat to service the Subcommittee, Ms NG noted from the paper that there were currently four vacant Bills Committee slots but that the Secretariat would have difficulties in providing support service to the Subcommittee after taking into account the anticipated workload within the next three months. She advised that two Bills Committees chaired by her, namely, the Bills Committee on Civil Justice (Miscellaneous Amendments) Bill 2007 and the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007, were concluding their work and were expected to present their reports to the House Committee soon. The Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions, also chaired by her, had little outstanding work to tackle. She asked whether the Secretariat had taken account of the impending completion of work of these committees when anticipating its workload in the upcoming months.

26. At the invitation of the Chairman, ASG2 explained that the Secretariat had considered the progress of the scrutiny work of the Bills Committees in action in anticipating its workload. She invited Members to note that of the 14 bills in the Legislative Programme which would likely be introduced into LegCo before the end of February 2008, 13 Bills Committees were expected to be formed. Therefore, even though a number of existing Bills Committees would complete work shortly, the maximum limit of 16 Bills Committees would be reached within the next three months.

27. The Secretary General (SG) drew Members' attention to the position report on the existing and anticipated Bills Committees and subcommittees in Appendix II to the paper, and pointed out that assessments of the work progress of the existing Bills Committees and subcommittees had been reflected in List A of the Appendix.

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28. Ms Margaret NG was of the view that the Administration was always behind schedule in introducing bills into the Council and as such, Members should not defer an urgent task in hand merely on the ground of the expected introduction of bills into the Council. It was uncertain when the Administration would introduce the 14 bills into the Council, and in any case it was unlikely that all the bills would be introduced in one go. She added that as the subject matter to be studied by the Subcommittee was mainly the procedure in conducting strip searches which was not too complex, the Subcommittee, if activated immediately, might have completed most of its work by the time the 14 bills were introduced into the Council. Given the impending completion of work of some Bills Committees, she and other Members belonging to the Civic Party supported the activation of the Subcommittee.

29. Mr James TO concurred with Ms Emily LAU and Ms Margaret NG and expressed support for the activation of the Subcommittee. He quoted the precedent of the Subcommittee on Review of Existing Statutory Provisions on Search and Seizure of Journalistic Material which studied procedural matters. While welcoming the review to be conducted by the Police, he considered it necessary for LegCo to conduct a parallel study on the matter. The Subcommittee would be a dedicated forum for members of the public, in particular human rights organizations, to express views which could also be taken into account by the Police in their review. Should Members look into the matter only after the Police had completed their review, the Police would have to revisit the matter in the light of the views expressed by Members and deputations. This would impact adversely on the credibility of the Police and the efficiency of their review. It would, therefore, be in the public interest for LegCo to conduct a study on the matter in parallel with the review undertaken by the Police.

30. Mr Howard YOUNG said that he and Mr Andrew LEUNG had voted against the motion on the appointment of the Subcommittee at the meeting of the Panel as there were pending court proceedings on the Lee Tung Street incident and there was no urgency for conducting an immediate study on the matter. He stressed that their objection to the appointment of the Subcommittee did not mean that they considered the matter unimportant. As regards the availability of resources in the Secretariat to service the Subcommittee, Mr YOUNG pointed out that although the Secretariat might have spare capacity at the moment, it had always been the case that Members and the Secretariat would be heavily engaged in the scrutiny of bills towards the end of the last session of a legislative term. Having regard to all these factors and the review to be undertaken by the Police, he remained of the view that it would be more appropriate to await the conclusion of the court proceedings. He did not support the activation of the Subcommittee at the present juncture.

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31. Dr YEUNG Sum expressed support for the activation of the Subcommittee. He said that the appointment of the Subcommittee had already borne fruits, as evidenced by the swift decision made by the Police to conduct a review on their practices regarding handling of searches of detainees. The issue of strip search in the Lee Tung Street incident had caused a public outcry, and LegCo could not be answerable to the public if the Subcommittee could not be activated to follow up the matter even while LegCo had the capacity to commence the work. Regarding the availability of resources in the Secretariat to service the Subcommittee, Dr YEUNG informed Members that the Bills Committee on The English Schools Foundation (Amendment) Bill 2007 chaired by him would soon complete its scrutiny work. He believed that as the focus of the Subcommittee would be on procedural matters, it would not take long for it to complete its work so long as the Subcommittee's meetings were conducted properly.

32. Mr LAU Kong-wah said that the maximum number of subcommittees on policy issues in operation, as agreed by Members, should be eight. The House Committee had to consider the activation of the Subcommittee because this quota had been exceeded. He agreed that the subject of the Police's handling of searches of detainees warranted detailed examination by LegCo. However, as the Police had already undertaken to conduct a review and revert to the Panel in three months' time, he considered that Members should await the completion of the review unless they had no confidence in the Police. Referring to Mr LEUNG Kwok-hung's view that the Subcommittee should inquire into the Lee Tung Street incident, Mr LAU clarified that this was not the purpose of appointment of the Subcommittee. The purpose of appointing the Subcommittee was to study policy issues relating to the Police's practices in handling searches of detainees. It would be inappropriate for the Subcommittee to inquire into the incident as there were pending court proceedings.

33. Dr Fernando CHEUNG shared the view on the urgency in activating the Subcommittee as the alleged strip searches of persons arrested in the Lee Tung Street incident had violated human rights. It would be unacceptable and detrimental to the image of Hong Kong if strip search was used as a means to suppress freedom of expression by individuals. He added that the Bills Committee on Domestic Violence (Amendment) Bill 2007 chaired by him was expected to complete work within the next three months.

34. As it was already 3:00 pm, the Chairman pointed out that in accordance with Rule 20(e) of the House Rules, the House Committee meeting had to be suspended and would resume after the Finance Committee meeting to deal with the unfinished business on the Agenda.

(The meeting was suspended at 3:00 pm and resumed at 5:08 pm.)

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35. Mr LEUNG Yiu-chung said that it would be odd for Members not to approve the activation of a Subcommittee which had been appointed. Referring to the four factors which should be considered by the House Committee in deciding whether the Subcommittee should be activated, he said that although the number of new bills to be introduced within the next three months was a factor for consideration, it was uncertain when these bills would be introduced. As such, the Subcommittee would have to wait indefinitely for its activation. This would be unfair to the members of the Panel who had supported the appointment of the Subcommittee. It would also render the appointment of the Subcommittee meaningless. Such handling of the Panel's request would give the public an impression of LegCo not attaching importance to the matter. Given that the quota of subcommittees on policy issues in action had already been exceeded, he saw no justification for activating other subcommittees on the waiting list before but not the Subcommittee in question. Mr LEUNG further opined that as new bills were expected to be introduced in the coming months, the Subcommittee should be activated the sooner the better.

36. Dr KWOK Ka-ki did not agree with the view that it was unnecessary for LegCo to look into the matter because the Police had undertaken to conduct a review. He pointed out that there were a number of examples where LegCo conducted its study in parallel with the Administration. The public had high expectations on LegCo to monitor the work of the Administration, and it was the responsibility of LegCo Members to discharge such a duty. As some Bills Committees and subcommittees were expected to complete work shortly, and it was uncertain whether the bills on the Legislative Programme would be introduced in the next three months, it would be best for the Subcommittee to be activated as soon as possible so that its work could be completed early. Dr KWOK considered it incumbent upon LegCo to study systems related problems which had been unveiled. If the existing manpower resources in the Secretariat were insufficient to cope with the workload, additional resources should be sought.

37. Mr James TO said that there was no cause for concern about the appropriateness of activating the Subcommittee in the light of the pending court case on the Lee Tung Street incident. The Subcommittee was tasked to study policy and procedural issues relating to the Police's practices in handling searches of detainees, and not to inquire into the incident. Indeed, LegCo had looked into the policy and procedural issues concerning subject matters on which there were pending court cases. The Subcommittee on Review of Existing Statutory Provisions on Search and Seizure of Journalistic Material was a case in point.

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38. Mr TO further said that whether or not Members had confidence in the Police was not the crux of the issue. He reiterated the need for LegCo to conduct a parallel study on the matter as the Subcommittee would provide a forum for members of the public, relevant organizations, Government departments and disciplinary forces to give views. The Subcommittee's study would complement the internal review to be conducted by the Police. Given the grave public concern, it was incumbent upon LegCo to follow up on the matter. Should the Subcommittee commence its study only after the Police had completed their review, the Police would have to revisit the matter in the light of the views expressed by LegCo Members and deputations, resulting in a waste of time.

39. Mr LAU Kong-wah reiterated his view that the Subcommittee should only examine the relevant policy issues but should not inquire into the Lee Tung Street incident. He did not agree with the view that the Subcommittee would have to wait indefinitely for its activation. Upon the completion of the Police's review in three months' time, the Panel would consider the need to activate the Subcommittee in the light of the findings of the review. He considered this a more pragmatic approach to deal with the matter.

40. As regards the view that it would be unfair to members of the Panel who had supported the appointment of the Subcommittee should its activation not be approved by the House Committee, Mr LAU opined that as the activation of the Subcommittee was a matter for the House Committee, Members were entitled to their views. He recalled that only 10 members of the Panel voted on the motion, which was moved without notice, for the appointment of the Subcommittee. The House Committee meeting provided an opportunity for Members to freely express their views on the matter and this should be respected.

41. Mr LEUNG Kwok-hung said that while he remained of the view that the Subcommittee should investigate into the incident, he was aware of the practical difficulty involved as the Subcommittee did not have the power to summons the relevant persons. He considered it necessary to look into the matter as the information provided by the Police at the Panel meeting pointed to a possible abuse of power and significant deviation from justice. The public looked to LegCo to protect their rights and it was incumbent upon LegCo to follow up the matter. As the current term of LegCo would expire in July 2008, little time would be left for Members to look into the matter should the activation of the Subcommittee be deferred.

42. Regarding the availability of resources in the Secretariat to service the Subcommittee, Mr LEUNG further said that some Members had advised that the work of a number of Bills Committees and subcommittees was nearing completion. The Subcommittee, if activated, could be flexible in its work and

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adjust its schedule depending on circumstances. He added that as the Police were not entrusted by LegCo to conduct the review, it was uncertain whether the review could address all issues of concern raised by Members. He appealed to Members to support the activation of the Subcommittee.

43. Mr James TO said that as the Subcommittee was not tasked to investigate into the Lee Tung Street incident, Members should not be unduly concerned about the pending court proceedings. He drew Members' attention to a procedural point. He pointed out that the Panel had already decided to appoint the Subcommittee to study issues relating to the Police's handling of searches of detainees. It was not for the House Committee to discuss whether the Subcommittee should be appointed but rather, whether the Subcommittee should be activated in consideration of the existing and anticipated workload of LegCo and the availability of resources in the Secretariat. He considered that the Panel's decision to appoint the Subcommittee should be respected and it was inappropriate for non-Panel Members to challenge the decision. He stressed that the purpose of discussing the activation of subcommittees at the House Committee meeting was for co-ordination of the work of committees having regard to the availability of resources in the Secretariat.

44. Mr LAU Kong-wah reiterated his stance that the Subcommittee should examine the relevant policy issues, but not the Lee Tung Street incident. The question was when the Subcommittee should commence its work. He had already expressed the view that the matter should be considered after the completion of the Police's review in three months' time. To address the concern of Mr LEUNG Kwok-hung that the Police's review might not cover all issues of concern raised by members, he suggested that the Clerk to the Panel could issue a circular to Panel members to seek their views on issues which should be covered in the Police's review. Such views could then be forwarded to the Police.

45. In response to Mr James TO, the Chairman said that should Members decide not to activate the Subcommittee at the present juncture, the Subcommittee would be the first one on the waiting list. As the Police would report the outcome of their review to the Panel in three months' time, the Panel could seek the House Committee's approval for the activation of the Subcommittee again should the Panel consider the outcome of the review unsatisfactory. Alternatively, if there were special circumstances in the interim which called for the immediate activation of the Subcommittee, the Panel could also put forward such a request to the House Committee.

46. Mr James TO was concerned whether the Subcommittee had to await the completion of the Police's review for its activation, even if there was a vacant slot.

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47. The Chairman clarified that the Subcommittee could be activated once there was a vacant slot.

48. Ms Emily LAU sought clarification on whether the Subcommittee could be activated automatically without the need to seek the approval of the House Committee once a vacant slot for subcommittees on policy issues arose.

49. SG replied in the affirmative. He referred Members to paragraph 2 of LC Paper No. CB(2) 583/07-08 and elaborated on the arrangements agreed by the House Committee on the activation, operation and servicing of subcommittees. According to the agreed arrangements, the maximum number of subcommittees on policy issues should be eight. Currently, 12 such subcommittees were in operation. When the number of such subcommittees fell below eight, the Subcommittee could be activated automatically.

50. The Chairman concurred with SG.

51. Mr LAU Kong-wah noted that according to the arrangements agreed by Members, the Subcommittee could be activated automatically when the total number of subcommittees on policy issues was less than eight. He proposed that the availability of vacant slots apart, Members should also await the completion of the review by the Police before deciding whether the Subcommittee should be activated.

52. Ms Emily LAU sought clarification on whether the Subcommittee could be activated automatically once there was a vacant slot, or whether the House Committee had to consider other factors for its activation even though there was a vacant slot.

53. The Chairman said that according to the agreed arrangements, when the total number of subcommittees on policy issues was less than eight, the first subcommittee on the waiting list could be activated automatically. Mr LAU Kong-wah's proposal was for the Subcommittee not to be activated before the completion of the Police's review.

54. Ms Emily LAU said that Mr LAU's proposal did not accord with the agreed arrangements and should not be considered by the House Committee.

55. Mr James TO said that the issue at stake concerned a matter of principle. The Panel had decided to appoint the Subcommittee and was seeking the House Committee's approval for its activation because the quota had been exceeded. According to the agreed arrangements, the House Committee should take into account the existing and anticipated workload of the Secretariat in considering the Panel's request. Should the request be rejected by the House Committee, the Subcommittee would be put on the waiting list and had to await its turn for

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activation. He pointed out that Mr LAU Kong-wah's proposal departed from the agreed arrangements in that the House Committee was being asked to overrule the Panel's decision and consider other factors in addition to the workload of LegCo and the resources in the Secretariat. This proposal would have significant implications on the relationship between the House Committee and Panels.

56. SG sought clarification from Mr LAU Kong-wah on whether his proposal was for the Subcommittee to be activated after the Police had completed their review in three months' time, or when the total number of subcommittees on policy issues was less than eight, whichever was the earlier. Mr LAU replied in the negative.

57. Mr LEUNG Kwok-hung said that the activation of the Subcommittee should follow the agreed arrangements, i.e., it could be activated automatically when there was a vacant slot for subcommittees on policy issues. Mr LAU Kong-wah had proposed to invite the House Committee to review the Panel's decision on the appointment of the Subcommittee. He stressed that Members should abide by the agreed arrangements, and the House Committee should only consider whether the Subcommittee should be activated.

58. Mrs Anson CHAN said that as a new LegCo Member, she considered it inconceivable for Members to have spent so much time on discussing whether the Subcommittee should be activated. The subject matter to be studied by the Subcommittee involved important issues of human rights and law enforcement power of the Police. The study of the Subcommittee would complement the internal review to be undertaken by the Police. She believed that Members would have supported the activation of the Subcommittee immediately if they had experienced strip search personally.

59. Mr LAU Kong-wah said that the fact that there were 12 subcommittees on policy issues in operation notwithstanding the agreed quota of eight showed that the House Committee had discussed the subject of the appointment of subcommittees under Panels and had made exceptions to the agreed arrangements according to the circumstances of individual cases. The House Committee did have a role to play concerning the appointment of subcommittees under Panels. The House Committee was not a rubber stamp and would not necessarily support the decisions of Panels.

60. Ms Margaret NG said that the question before Members was a procedural one, i.e., whether Mr LAU Kong-wah's proposal fell outside the scope of the subject matter being considered by the House Committee. Pursuant to the agreed arrangements, the House Committee was invited to consider the Panel's request for activation of the Subcommittee as the number of subcommittees on policy issues in operation had exceeded the quota. Mr

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LAU had proposed to amend the Panel's request to the effect that the Subcommittee should not be activated within the next three months, regardless of the number of subcommittees on policy issues in operation. The justifications given by Mr LAU were beyond those factors which should be taken into account by the House Committee in considering the activation of subcommittees. She considered that Mr LAU's proposal should be a matter for discussion by the Panel, and suggested that Mr LAU's proposal be withdrawn.

61. Mr James TO pointed out that had the number of subcommittees on policy issues in operation been less than eight, it would not have been necessary for the Subcommittee to seek the approval of the House Committee for its activation. Should the House Committee turn down the Panel's request for activation of the Subcommittee, the Subcommittee should await its turn for activation until the total number of subcommittees was less than eight. Mr LAU Kong-wah, however, had proposed that the Subcommittee should not be activated within the next three months even when the total number of subcommittees on policy issues was less than the quota. Mr TO was of the view that such a proposal did not accord with the agreed arrangements.

62. SG clarified that when the House Committee agreed on the arrangements on the appointment, operation and servicing of subcommittees on 2 March 2007, the number of subcommittees in operation then had already exceeded the quota of eight. There was no question that the House Committee had made exceptions to the agreed arrangements.

63. Mr James TO stressed that had the total number of subcommittees in operation been less than eight, the Subcommittee would have been activated without having to seek the approval of the House Committee. The Chairman and SG confirmed Mr TO's understanding.

64. Mr LAU Kong-wah said that he had no intention to overstep the agreed procedures. He enquired whether it was in order for him to propose that Members should await the completion of the Police's review before deciding whether the Subcommittee should be activated.

65. The Chairman said that the arrangements for the activation, operation and servicing of subcommittees on policy issues had been discussed and agreed by the House Committee. The matter for the decision of the House Committee was whether the Subcommittee should be activated notwithstanding that the quota for such subcommittees had been exceeded. In making the decision, the House Committee should take account of the four main factors as set out in paragraph 2 of LC Paper No. CB(2)583/07-08. Unless Members had further thorough discussions on the agreed arrangements, it was inappropriate to add yet another factor. Mr LAU Kong-wah's proposal fell

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outside the agreed arrangements and could not be considered by the House Committee. The Panel should be the appropriate forum for discussing whether factors other than the availability of slots should be considered.

66. Mr LAU Kong-wah accepted the Chairman's view, and said that he would raise the issue of the activation of the Subcommittee at the next Panel meeting.

67. The Chairman put to vote the proposal that the Subcommittee on Police's Handling of Searches of Detainees be activated immediately notwithstanding that the maximum number of subcommittees on policy issues had been exceeded. The result was: 15 Members voted in favour of the proposal, 24 Members voted against the proposal and one Member abstained. The proposal was not supported. The Chairman said that the Subcommittee would be put on the waiting list of subcommittees on policy issues. Its activation would have to await the availability of a vacant slot for such subcommittees.

VII. Proposed overseas duty visit by the Panel on Development
(LC Paper No. CB(1) 436/07-08)

68. Mr LAU Wong-fat, Chairman of the Panel, said that the Panel sought the House Committee's permission to conduct an overseas duty visit from 14 to 22 March 2008 to Amsterdam and Prague to obtain first-hand information on their experiences in town planning and urban renewal.

69. Mr LAU referred Members to the paper for details of the proposed visit, and added that 10 Members, including one non-Panel Member, had indicated interest in joining the visit.

70. The Chairman proposed that permission be given for the Panel to undertake the duty visit under rule 22(v) of the House Rules (HR). Members agreed.

VIII. Proposed overseas duty visit by the Panel on Food Safety and Environmental Hygiene
(LC Paper No. CB(2) 584/07-08)

71. Mr Tommy CHEUNG, Chairman of the Panel, said that the Panel sought the House Committee's permission to conduct an overseas duty visit from 23 to 30 March 2008 to France and the United Kingdom to study the regulatory frameworks of food safety, food labelling requirements as well as relevant consumer protection measures in these places.

Action

72. Mr CHEUNG referred Members to the paper for details of the proposed visit, and added that four Panel members had indicated interest in joining the visit.

73. The Chairman proposed that permission be given for the Panel to undertake the duty visit under rule 22(v) of HR. Members agreed.

IX. Any other business

74. There being no other business, the meeting ended at 5:45 pm.

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Legislative Council Secretariat
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