

立法會
Legislative Council

LC Paper No. CB(2) 2220/07-08

Ref : CB2/H/5/07

House Committee of the Legislative Council

**Minutes of the 26th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 6 June 2008**

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
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 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 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

Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG, JP
Hon KWONG Chi-kin
Hon TAM Heung-man

Members absent :

Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Mrs Anson CHAN, GBM, JP

Clerk in attendance :

Mrs Vivian KAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Ms Pauline NG	Assistant Secretary General (Special Duty)
Mrs Constance LI	Assistant Secretary General 1

Mrs Justina LAM	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Pandora CHAN	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Connie SZETO	Chief Council Secretary (1)6
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Mr KAU Kin-wah	Assistant Legal Adviser 6
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 25th meeting held on 30 May 2008
(LC Paper No. CB(2) 2145/07-08)

The minutes were confirmed.

II. Matters arising

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

Attendance by CS at House Committee meeting

2. The Chairman said that CS had informed her during their meeting of his agreement to attend a special meeting of the House Committee on 20 June 2008. The Director of Administration had subsequently written to the Clerk to the House Committee to suggest that the meeting be held from 11:00 am to 12:30 pm. The Chairman further said that as a meeting of the Finance Committee (FC) had been scheduled in that afternoon, the special meeting was arranged to be held in the morning in order not to affect the FC meeting.

3. The Chairman added that CS would like to exchange views with Members on "Cooperation between Guangdong and Hong Kong" at the special meeting.

4. In response to Ms Emily LAU, the Chairman said that in addition to the topic suggested by CS, Members might raise other issues at the special meeting.

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

5. In response to Ms Emily LAU, the Chairman said that she had requested CS to enquire with CE the date of the fourth Q&A Session at her meeting with CS two weeks ago, and CS confirmed that he had relayed Members' request to CE. The Chairman undertook to follow up with CS at their next meeting.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 30 May 2008 and tabled in Council on 4 June 2008

(LC Paper No. LS 91/07-08)

6. The Chairman said that a total of four items of subsidiary legislation were gazetted on 30 May 2008 and tabled in the Council on 4 June 2008.

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 2 July 2008.

IV. Further business for the Council meeting on 11 June 2008

(a) Questions

(LC Paper No. CB(3) 685/07-08)

9. The Chairman said that Mr Albert HO had swapped his oral question with his written question.

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

Supplementary Appropriation (2007-2008) Bill

10. The Chairman said that the Administration had given notice to present the above Bill to the Council on 11 June 2008. The House Committee would consider the Bill at the next meeting.

11. The Chairman added that a Supplementary Appropriation Bill would be introduced to the Council after the close of each financial year to provide for a specified sum of appropriation which was the excess of expenditure already incurred over the original appropriation for the previous financial year.

(c) **Government motions**

Five proposed resolutions to be moved by the Secretary for Commerce and Economic Development under section 34(2) of the Interpretation and General Clauses Ordinance relating to the following subsidiary legislation respectively:

- (i) **the Trade Descriptions (Provision of Information on Natural Fei Cui) Order;**
- (ii) **the Trade Descriptions (Provision of Information on Diamond) Order;**
- (iii) **the Trade Descriptions (Provision of Information on Regulated Electronic Products) Order;**
- (iv) **the Trade Descriptions (Marking) (Gold and Gold Alloy) (Amendment) Order 2008; and**
- (v) **the Trade Descriptions (Marking) (Platinum) (Amendment) Order 2008**

(Wording of the proposed resolutions issued vide LC Paper No. CB(3) 700/07-08 dated 5 June 2008.)

12. The Chairman said that the Subcommittee to Study Six Items of Subsidiary Legislation under the Trade Descriptions Ordinance Gazetted on 18 April 2008 had presented its report to the House Committee at the last meeting, and Members had not raised objection to the proposed amendments to be moved by the Administration.

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

The Hong Kong University of Science and Technology (Amendment) Bill 2008

13. The Chairman said that Mr Abraham SHEK had given notice to present the above Bill to the Council on 11 June 2008. The House Committee would consider the Bill at the next meeting.

V. Business for the Council meeting on 18 June 2008

(a) **Questions**

(LC Paper No. CB(3) 686/07-08)

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14. 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**

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

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

(i) **Trade Descriptions (Amendment) Bill 2007**

(ii) **Domestic Violence (Amendment) Bill 2007**

(iii) **Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2007**

(iv) **Buildings (Amendment) Bill 2007**

16. The Chairman said that the relevant Bills Committees on the above four Bills had presented their reports to the House Committee at the last meeting, and Members had not raised objection to the resumption of the Second Reading debates on the above four Bills.

(d) **Government motion**

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

(e) **Members' motions**

(i) **Motion on "Legislating to regulate debt collection practices"**
(Wording of the motion issued vide LC Paper No. CB(3) 697/07-08 dated 4 June 2008.)

(ii) **Motion on "Reducing the duties on motor vehicle fuels"**
(Wording of the motion issued vide LC Paper No. CB(3) 696/07-08 dated 4 June 2008.)

18. The Chairman said that the above motions would be moved by Mr Albert CHAN and Mr LAU Kong-wah respectively, and the wording of the motions had been issued to Members.

19. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 11 June 2008.

VI. Report of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Buildings (Amendment) Bill 2007**
(LC Paper No. CB(1) 1764/07-08)

20. The Chairman said that Mr KWONG Chi-kin, Chairman of the Bills Committee, had given a verbal report at the last House Committee meeting. A written report was provided for the meeting.

21. Members did not raise any queries on the report.

(b) **Report of the Subcommittee on Subsidiary Legislation to Implement the Obligations under the United Nations Convention Against Transnational Organized Crime**
(LC Paper No. CB(2) 2143/07-08)

22. Mr James TO, Chairman of the Subcommittee, reported that the Subcommittee was formed to study two items of subsidiary legislation for implementing the obligations under the United Nations Convention Against Transnational Organized Crime, namely the Fugitive Offenders (Transnational Organized Crime) Order (FO Order) and the Mutual Legal Assistance in Criminal Matters (Transnational Organized Crime) Order (MLA Order). These two Orders were technical in nature. The Subcommittee had made reference to items of subsidiary legislation of a similar nature studied by LegCo in the past, and considered these two Orders in order.

23. The Chairman said that the FO Order was subject to the negative vetting procedure while the MLA Order the positive vetting procedure. The Administration would give fresh notice for moving the motion on the MLA Order.

(c) **Report of the Subcommittee on Fugitive Offenders (Ireland) Order**
(LC Paper No. CB(2) 2130/07-08)

24. Mr James TO, Chairman of the Subcommittee, reported that the Subcommittee had studied the Order in depth and had made an article-by-article comparison of the provisions of the Order with those in the model agreement on the surrender of fugitive offenders. He further said that as members had studied similar Orders relating to other countries, the scrutiny of the Order was concluded at one meeting. The Subcommittee supported the Order.

25. The Chairman added that the Order was subject to the negative vetting procedure.

(d) **Report of the Subcommittee on Mutual Legal Assistance in Criminal Matters (Finland) Order**
(*LC Paper No. CB(2) 2144/07-08*)

26. Mr James TO, Chairman of the Subcommittee, reported that the Subcommittee had examined the Order in detail and supported it. He added that as members had experience in studying items of subsidiary legislation of a similar nature, the Subcommittee completed scrutiny of the Order at one meeting with the Administration.

27. The Chairman said that the Administration would give fresh notice for moving the motion on the Order.

(e) **Report of the Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs**
(*LC Papers No. CB(2) 2142/07-08 and CB(2) 2140/07-08*)

28. Dr Fernando CHEUNG, Chairman of the Subcommittee, said that over the past three years, the Subcommittee had held 28 meetings and had received the views of 73 organizations and 20 individuals on the issues under study. The Subcommittee had also compared the provision of education for children with special educational needs in Hong Kong with four selected places.

29. Dr CHEUNG further said that the Subcommittee had drawn up 46 recommendations to improve the provision of services in various areas for students with special educational needs, as detailed in the Subcommittee's report. To provide an opportunity for Members to express their views on the subject and for the Administration to provide its response, the Subcommittee had agreed that a motion on the Subcommittee's report should be moved for debate at the Council meeting on 25 June 2008 and the agreement of the House Committee should be sought for the allocation of a debate slot to him, as Chairman of the Subcommittee, under Rule 14A(h) of the House Rules for moving the motion. Should the House Committee accede to the Subcommittee's request, the debate slot would not be counted as his own slot.

30. Dr CHEUNG added that the Subcommittee had also suggested that there should only be one other debate on a Member's motion with no legislative effect at the Council meeting on 25 June 2008. He appealed to Members to support the Subcommittee's request and suggestion.

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31. The Chairman said that should the House Committee accede to the Subcommittee's request and suggestion, there would only be one other debate on a Member's motion with no legislative effect at the Council meeting on 25 June 2008.

32. Dr YEUNG Sum expressed support for the Subcommittee's request for a debate slot.

33. In response to Mr LAU Kong-wah, the Chairman said that the request of the Subcommittee on West Kowloon Cultural District (Subcommittee on WKCD) for a debate slot to move a motion at the same Council meeting would be dealt with under agenda item VIII.

34. Mr LAU Kong-wah sought clarification on whether only one or both of the debate slots on Members' motions with no legislative effect at the Council meeting on 25 June 2008 would be allocated to the Subcommittee(s).

35. The Chairman suggested that as the two Subcommittees had each requested a debate slot at the same Council meeting, their requests could be discussed jointly under agenda VIII. Members agreed.

(f) Report of the Subcommittee on Dutiable Commodities (Amendment) Regulation 2008

36. Mr Tommy CHEUNG, Chairman of the Subcommittee, reported that the Amendment Regulation sought to increase the fee for the issue of a temporary liquor licence from \$335 to \$385 per diem with effect from 11 July 2008.

37. Mr CHEUNG further reported that the Subcommittee had held one meeting with the Administration. Members noted the proposed increase of 15% and the Administration's explanation for the need to recover the increased cost for processing temporary liquor licence, mainly on account of the increase in staff cost. Members also noted that the fee for temporary liquor licence was last increased in 2006, and considered the proposed increase acceptable. Mr CHEUNG further said that the Subcommittee had urged the Administration to further enhance the efficiency of the licensing regime to contain cost, thus alleviating the pressure for fee increase. The Subcommittee did not object to the Amendment Regulation and would not move amendments.

38. Mr CHEUNG added that the Subcommittee would provide a written report at the next House Committee meeting.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2146/07-08)

39. The Chairman said that there were 10 Bills Committees, 11 subcommittees under the House Committee and five subcommittees under Panels in action. She added that there was one subcommittee on policy issue on the waiting list.

VIII. Request for a debate slot for the Chairman of the Subcommittee on West Kowloon Cultural District (Subcommittee on WKCD) Development to move a motion on the Phase III Study Report

(LC Paper No. CB(1) 1782/07-08)

40. Mr Alan LEONG, Chairman of the Subcommittee on WKCD, said that the Subcommittee on WKCD planned to submit its Phase III Study Report, which was near completion, to the House Committee on 20 June 2008. The Report would cover the following aspects -

- (a) the planning work and procedures of the West Kowloon Cultural District (WKCD);
- (b) the recommended contents and implementation aspects of the Core Arts and Cultural Facilities;
- (c) the establishment of the statutory authority for WKCD; and
- (d) the financing of the WKCD project.

41. Mr LEONG further said that to provide an opportunity for Members to express their views on issues pertinent to the Phase III Study Report and for the Administration to provide its response, the Subcommittee on WKCD considered that a motion on the Report should be moved for debate at a Council meeting. The Subcommittee on WKCD noted that the Administration planned to submit to FC on 4 July 2008 a funding proposal for the implementation of the WKCD project through an upfront endowment, and to resume the Second Reading debate on the WKCD Authority Bill on 25 June or 2 July 2008. To enable Members to take into account the Subcommittee on WKCD's findings and recommendations in deciding whether to support the funding proposal and the Bill, the Subcommittee on WKCD considered that the best timing for moving the motion on the Report was at the Council meeting on 25 June 2008. The Subcommittee on WKCD therefore sought the agreement of the House Committee, under House Rule 14A(h), for priority allocation of a debate slot to him as its Chairman to move a motion on the Report at that Council meeting. He appealed to Members to support the Subcommittee's request.

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42. The Chairman said that there was no precedent for the House Committee to consider the request of two committees each for a debate slot at the same Council meeting. In the past, where the House Committee acceded to the request of a committee for priority allocation of a debate slot at a Council meeting, there was normally only one other debate on a Member's motion with no legislative effect at that Council meeting. As the two Subcommittees had each requested a debate slot at the Council meeting on 25 June 2008, the Chairman invited Members to consider whether to allocate a debate slot to only one or both Subcommittees. The Chairman pointed out that should Members go for the latter, Members should also decide the number of individual Members' motions with no legislative effect, if any, at that Council meeting.

43. Dr YEUNG Sum said that both Subcommittees had done a lot of work to complete the study on the relevant issues. He considered it appropriate to provide opportunities for Members to express views on both reports, although he noted that it was time critical for the Subcommittee on WKCD to move a motion for debate at the Council meeting on 25 June 2008. Should Members consider that both Subcommittees should each be allocated a debate slot at the Council meeting on 25 June 2008, he would not object to such an arrangement.

44. The Chairman said that should motion debates on the two Subcommittees' reports be held at the Council meeting on 25 June 2008, Members had to consider whether there should be any other debate on an individual Member's motion with no legislative effect at that Council meeting.

45. Dr YEUNG Sum said that as it would affect Members who intended to move motions for debate at that Council meeting, he would defer to Members' view on the matter.

46. Ms Emily LAU expressed support for allocating a debate slot to each of the Subcommittees at the Council meeting on 25 June 2008. In her view, the motion debates on the two Subcommittees' reports should be accorded priority over those initiated by individual Members, having regard to the significant amount of work done by the Subcommittees. She considered that the motion debate on the Phase III Study Report should take place on 25 June 2008 before the resumption of the Second Reading debate on the WKCD Authority Bill. She added that there should not be any other debate on individual Members' motions with no legislative effect at that Council meeting in order not to overload Members.

47. Mrs Selina CHOW did not agree with Ms Emily LAU's view that motion debates on the two Subcommittees' reports should be accorded priority over those initiated by individual Members. While noting the view of some Members on the undesirability of having more than two debates on Members'

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motions with no legislative effect on 25 June 2008, she pointed out that it was normal for LegCo to be loaded with work towards the end of a term. She said that she had been awaiting allocation of a debate slot, and enquired about the number of applications for debate slots at the Council meeting on 25 June 2008.

48. Secretary General reminded Members that apart from the debates on Members' motions with no legislative effect at the Council meeting on 25 June 2008, a Member's motion with legislative effect would be moved by Mr Albert HO under the Legislative Council (Powers and Privileges) Ordinance.

49. The Chairman said that for the Member's motion with legislative effect to be moved by Mr Albert HO on 25 June 2008, each Member would have a speaking time of up to 15 minutes.

50. At the invitation of the Chairman, Assistant Secretary General 3 said that so far, 13 Members had applied for the debate slots at the Council meeting on 25 June 2008. Of these Members, one had not been allocated a debate slot in the current session; 11 had been allocated a debate slot; and one had been allocated a debate slot twice. She added that the deadline for submitting applications for debate slots for that Council meeting was midnight of the day of the House Committee meeting.

51. Mrs Selina CHOW reiterated that she had submitted applications for a debate slot for a number of Council meetings but had not been allocated one. She pointed out that although lots had yet to be drawn on the allocation of debate slots at the Council meeting on 25 June 2008, any priority allocation of debate slots by the House Committee would result in fewer debate slots for individual Members' motions.

52. The Chairman said that Members should first decide whether to allocate a debate slot to only one or both of the Subcommittees at the Council meeting on 25 June 2008 before considering the number of other Members' motion debates with no legislative effect to be held.

53. Mrs Selina CHOW said that there would only be three Council meetings before the end of the term for which lots had yet to be drawn for the allocation of debate slots. For the Council meeting on 25 June 2008, apart from the two Subcommittees' requests for priority allocation of debate slots, many Members had also applied for debate slots. She considered that at least one debate slot at that Council meeting should be allocated to individual Members. Noting that there would also be a debate on a Member's motion with legislative effect at that Council meeting, she expressed concern about the meeting arrangement.

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54. The Chairman said that as the business on the Agenda of that Council meeting would unlikely be finished by midnight on that day, the Council meeting would likely be suspended and resumed on the following day.

55. Mr LAU Kong-wah agreed with Ms Emily LAU's view that there should only be two Members' motions with no legislative effect at that Council meeting. However, he would consider it a fair arrangement to leave one debate slot for moving an individual Member's motion. He sought the view of Dr Fernando CHEUNG on the possibility of deferring the debate on the Subcommittee's report to the Council meeting on 2 July 2008.

56. Dr Fernando CHEUNG said that if the House Committee acceded to the Subcommittee's request for the allocation of a debate slot to him to move the motion, he would accept the proposal for deferring the motion debate to the Council meeting on 2 July 2008.

57. Mr LEUNG Kwok-hung said that some Members had been overwhelmed by heavy work recently. He considered it unacceptable to expect Members to work under an unreasonable timeframe and to make hasty decisions. In his view, where necessary, Members should consider holding further Council meetings to deal with business.

58. As Dr Fernando CHEUNG considered it acceptable for the motion debate on the Subcommittee's report to be held at the Council meeting on 2 July 2008, the Chairman sought Members' view on such an arrangement. Members agreed.

59. The Chairman then sought Members' view on the holding of a motion debate on the Subcommittee on WKCD's Phase III Report and of one other debate on an individual Member's motion with no legislative effect at the Council meeting on 25 June 2008. Members agreed.

60. Mr Albert HO enquired about the possibility of holding the motion debate on the Subcommittee on WKCD's Phase III Report before the resumption of the Second Reading debate on the WKCD Authority Bill.

61. The Chairman said that procedurally, the resumption of Second Reading debate on bills should take place before Members' motions at a Council meeting. This order of business on the agenda of a Council meeting could not be varied.

62. Ms Emily LAU requested the Chairman to relay to CS Members' request for the Administration not to resume the Second Reading debate on the WKCD Authority Bill before the motion debate on the Phase III Study Report took place.

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63. Dr YEUNG Sum supported Ms Emily LAU's request.
64. The Chairman agreed to relay the request to CS.

IX. Revised arrangements for House Committee meetings
(*LC Paper No. CB(2) 2148/07-08*)

65. The Chairman invited Members to consider the revised arrangements for House Committee (HC) meetings as contained in paragraph 6 of the paper.

66. The Chairman highlighted that under the revised arrangements, where a HC meeting and a FC meeting were to be held in the same afternoon, an estimation of the duration of the HC meeting would be made by the Clerk to HC in consultation with the HC Chairman after the agenda had been finalized. If the HC meeting was projected to last for more than 30 minutes, advance notice would be given to the Administration two days before the FC meeting of its re-scheduled starting time to a fixed time after 3:00 pm. Unless such advance notice had been given to the Administration, the HC meeting would have to be suspended at 3:00 pm and resumed to deal with the unfinished business on the agenda after the FC meeting. The Chairman added that the revised arrangements, if endorsed, would take effect from the next HC meeting.

67. Ms Emily LAU expressed objection to the revised arrangements. In her view, where a HC meeting and a FC meeting were to be held in the same afternoon, the FC meeting should be held at 2:30 pm.

68. Members endorsed the proposals concerning the revised meeting arrangements and the proposed amendments to rule 20(e) of the House Rules.

X. Any other business

69. There being no other business, the meeting ended at 3:01 pm.