

立法會
Legislative Council

LC Paper No. CB(2) 2408/07-08

Ref : CB2/H/5/07

House Committee of the Legislative Council

**Minutes of the 28th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 20 June 2008**

Members present :

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
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 David LI Kwok-po, GBM, GBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
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
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 Timothy FOK Tsun-ting, GBS, JP
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 Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, 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
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
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
Hon Mrs Anson CHAN, GBM, JP

Members absent :

Hon James TIEN Pei-chun, GBS, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon James TO Kun-sun
Hon SIN Chung-kai, SBS, JP
Hon Vincent FANG Kang, JP
Hon LEUNG Kwok-hung

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)
Ms Emily PANG	Acting Chief Public Information Officer
Miss Becky YU	Chief Council Secretary (1)1
Ms Anita SIT	Chief Council Secretary (1)4
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Ms Debbie YAU	Senior Council Secretary (1)1
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 27th meeting held on 13 June 2008
(*LC Paper No. CB(2) 2311/07-08*)

The minutes were confirmed.

II. Matters arising

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

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

III. Business arising from previous Council meetings

(a) Legal Service Division report on bills referred to the House Committee in accordance with Rule 54(4)

Mandatory Provident Fund Schemes (Amendment) Bill 2008
(*LC Paper No. LS 95/07-08*)

3. The Chairman said that the Bill sought to amend the Mandatory Provident Fund Schemes Ordinance to enable the Mandatory Provident Fund Schemes Authority to pay a special contribution into an account of a member of a provident fund scheme registered under the Ordinance.

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4. The Chairman further said that the Panel on Financial Affairs had been briefed on the legislative proposals at its meeting on 5 May 2008. While members had no objection to the proposals in principle, they had expressed concern on various issues.

5. At the invitation of the Chairman, the Legal Adviser said that the Legal Service Division had written to the Administration to seek clarification on some legal points, and had received the Administration's reply. However, the Chinese version of the reply had not been received in time for issuance to Members before the House Committee meeting.

6. The Chairman pointed out that the Bill was to implement the Budget proposal to inject \$6,000 into the Mandatory Provident Fund account of persons earning not more than \$10,000 a month. At the last House Committee meeting, some Members had expressed the view that a Bills Committee should be formed to study the Bill.

7. Mr Albert HO considered it necessary to form a Bills Committee to study the Bill.

8. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Ms LI Fung-ying, Mr Albert CHAN and Mr Ronny TONG.

9. The Chairman reminded Members that the last House Committee meeting for the current term would be held on 4 July 2008. She further said that for bills which were to resume Second Reading debate at the Council meeting on 9 July 2008, the relevant Bills Committees had to report their deliberations to the House Committee at the meeting. If the Second Reading debate on the Bill were to be resumed on 9 July 2008, approval would have to be sought for dispensing with the requisite notice periods. The Chairman added that it was up to the Bills Committee to decide how the Bill should be dealt with.

(b) Legal Service Division report on subsidiary legislation gazetted on 13 June 2008

(LC Paper No. LS 98/07-08)

10. The Chairman said that only one item of subsidiary legislation was gazetted on 13 June 2008, i.e. the United Nations Sanctions (Democratic Republic of the Congo) (No. 2) Regulation 2008 made under the United Nations Sanctions Ordinance and which was not required to be tabled in the Council.

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11. The Chairman said that the Regulation was not subject to amendment by the Legislative Council (LegCo). The past practice was to refer such regulations to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions. As the Subcommittee had completed its work and was scheduled to report under agenda item VII(g) below, the Chairman said that should Members consider it necessary to study this item of subsidiary legislation in detail, another subcommittee would have to be formed.

12. Ms Margaret NG did not consider it necessary to form a subcommittee to study the Regulation. She said that while the Subcommittee found these regulations generally in order, the Subcommittee had made certain recommendations which would provide useful reference for Members in future. She suggested bringing to the attention of the House Committee of the Fourth LegCo that the Regulation had not been scrutinized in detail.

13. Members agreed that it was not necessary to form a subcommittee to study the Regulation.

IV. Further business for the Council meeting on 25 June 2008

(a) Questions

(LC Paper No. CB(3) 754/07-08)

14. The Chairman said that Mr TAM Yiu-chung had replaced his written question.

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

(i) Prevention of Bribery (Amendment) Bill 2007

(ii) Revenue Bill 2008

(iii) Road Traffic Legislation (Amendment) Bill 2008

15. The Chairman said that the relevant Bills Committees on the above three 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 three Bills.

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

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

16. The Chairman said that at the last House Committee meeting, Members had not raised objection to the resumption of the Second Reading debate on the Bill.

(d) **Members' motions**

Proposed resolution to be moved by Hon LEE Cheuk-yan under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Pension Benefits Ordinance (Established Offices) (Amendment) (No. 2) Order 2008

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 773/07-08 dated 19 June 2008.)

17. The Chairman said that the Subcommittee on Pension Benefits Ordinance (Established Offices) (Amendment) (No. 2) Order 2008 had presented its report to the House Committee at the last meeting, and Members noted that Mr LEE Cheuk-yan would move a motion at the Council meeting to repeal the Order.

18. In response to Ms Emily LAU, the Chairman pointed out that the Bills Committee supported the Order, and the motion to repeal the Order was moved by Mr LEE Cheuk-yan in his individual capacity.

V. Business for the Council meeting on 2 July 2008

(a) **Questions**

(LC Paper No. CB(3) 755/07-08)

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

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

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

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

(i) **Statute Law (Miscellaneous Provisions) Bill 2008**

(ii) **Fixed Penalty (Smoking Offences) Bill**

(iii) **West Kowloon Cultural District Authority Bill**

21. The Chairman said that the relevant Bills Committees on the above three 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 three Bills.

(iv) **Supplementary Appropriation (2007-2008) Bill**

22. The Chairman said that at the last House Committee meeting, Members had not raised objection to the resumption of the Second Reading debate on the Bill.

(d) **Government motion**

Proposed resolution to be moved by the Secretary for Food and Health under the Pharmacy and Poisons Ordinance relating to:

- **the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2008; and**
- **the Poisons List (Amendment) (No. 3) Regulation 2008**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 733/07-08 dated 13 June 2008.)

(LC Paper No. LS 97/07-08)

23. The Chairman said that the motion was for seeking the LegCo's approval of the two Amendment Regulations to add two substances to Division A of the First and Third Schedules to the Pharmacy and Poisons Regulations and Division A in Part I of the Schedule to the Poisons List Regulations, so that pharmaceutical products containing these substances must be sold on registered premises of an authorized seller of poisons by a registered pharmacist or in his presence and under his supervision, with the support of prescriptions given by a registered medical practitioner, registered dentist or registered veterinary surgeon.

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24. Members did not raise objection to the Administration moving the proposed resolution at the Council meeting.

(e) **Members' motions**

(i) **Proposed resolution to be moved by Hon Miriam LAU Kin-ye under Rule 77(1) and (2) of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 753/07-08 dated 17 June 2008.)

25. The Chairman said that at the last House Committee meeting, Members noted that she, in her capacity as Chairman of the House Committee, would move a motion at the Council meeting to seek the Council's approval of the proposed modifications to the terms of reference of Panels.

(ii) **Motion on "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"**

(Wording of the motion issued vide LC Paper No. CB(3) 717/07-08 dated 10 June 2008.)

(iii) **Motion on "Proactively promoting waste recovery and recycling"**

(Wording of the motion issued vide LC Paper No. CB(3) 769/07-08 dated 19 June 2008.)

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

27. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 24 June 2008.

VI. Advance information on business for the Council meeting on 9 July 2008

Members' motions

Valedictory motion

(Wording of the motion issued vide LC Paper No. CB(3) 762/07-08 dated 17 June 2008.)

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28. The Chairman said that Members agreed at the last House Committee meeting to hold a valedictory motion debate at the Council meeting on 9 July 2008. According to the past practice, the speaking time limit for her as the mover of the motion should be 15 minutes and for Members seven minutes. She invited Members to consider the number of debates on individual Members' motions with no legislative effect, if any, for that Council meeting.

29. Ms Emily LAU said that as Members would be exhausted by the time Members' motions were moved for debate at the Council meeting on 9 July 2008, she definitely did not prefer holding two more individual Members' motion debates. She would not object even if no individual Member's motion debate would be held.

30. Mr Martin LEE said that Members belonging to the Democratic Party always considered that where a motion with a particular purpose was moved for debate, other Members' motion debates should be held as usual. As that Council meeting would be the last one at which motions could be moved for debate and some Members might wish to move motions on particular subjects for debate, he would prefer holding two individual Members' motion debates with no legislative effect for that Council meeting.

31. Mrs Selina CHOW considered holding one other Member's motion debate adequate as there would be a long agenda for that Council meeting. She said that all Members would likely speak at the valedictory motion debate, and Members could speak on any subject matters for that debate.

32. Mr LAU Kong-wah pointed out that there would be a lot of business for that Council meeting. As any subject matter could be covered at the valedictory motion debate, he considered it sufficient to hold only one debate on the valedictory motion.

33. Dr YEUNG Sum enquired whether it was procedurally in order to allow a speaking time limit of 15 minutes for each Member for the valedictory motion debate. Should this be feasible, he did not consider it necessary to hold any other Members' motion debates.

34. The Chairman said that under the past arrangement, the speaking time limit for the mover of the valedictory motion was 15 minutes and for Members seven minutes. It was procedurally in order to allow a speaking time limit of 15 minutes for each Member for the valedictory motion debate, although such an arrangement had not been adopted before.

35. Mr Howard YOUNG enquired about the number of Members' motion debates held at the Council meeting for the Second LegCo at which a valedictory motion was moved for debate.

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36. At the invitation of the Chairman, Assistant Secretary General 2 said that in addition to the valedictory motion debate, three individual Members' motion debates were held for that Council meeting in the Second LegCo, one of them being related to the Severe Acute Respiratory Syndrome.

37. Mr LEE Cheuk-yan said that he would prefer holding two other Members' motion debates to allowing a speaking time limit of 15 minutes for each Member at the valedictory motion debate.

38. Mr Ronny TONG considered a speaking time limit of 15 minutes for each Member appropriate as LegCo had completed four years' work. He pointed out that 15 minutes was only the maximum speaking time, and Members could speak for shorter durations.

39. Mr Martin LEE shared Mr Ronny TONG's view. He said that he had been a LegCo Member for 22 years and needed more time to speak at the valedictory motion debate.

40. Mr Albert CHENG said that he also considered a speaking time limit of 15 minutes for each Member appropriate, despite his having been a LegCo Member for only four years. He agreed with Mr Ronny TONG's view that Members might not speak up to the maximum time.

41. Miss CHOY So-yuk supported a speaking time limit of 15 minutes for each Member.

42. Taking into account the diverse views expressed by Members, the Chairman proposed three options for Members' consideration. First, only the valedictory motion debate would be held and the speaking time limit for each Member would be 15 minutes. Second, apart from the valedictory motion debate, only one other individual Member's motion debate would be held and the normal speaking time limit would apply to both debates. Third, apart from the valedictory motion debate, two other individual Members' motion debates would be held and the normal speaking time limit would apply to all three debates. The Chairman further proposed that Members should first choose one among the three options. Should Members go for the second or the third option, their view would then be sought on whether the normal speaking time limit should apply to the valedictory motion debate and/or the other individual Members' motion debates.

43. In response to Mr Martin LEE, the Chairman said that some Members had applied for the slots for moving motions for debate at the Council meeting on 9 July 2008.

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44. Ms Emily LAU considered it more appropriate for Members to choose among the three options by elimination to ensure that the final option would be supported by the majority of Members.

45. Members agreed to the Chairman's proposal to choose one among the three options.

46. The Chairman put the three options to vote. The outcome was: 29 Members voted for the first option; 13 Members for the second option; and one Member for the third option. The Chairman declared that only the valedictory motion debate would be held at the Council meeting on 9 July 2008, and the speaking time limit for each Member would be 15 minutes.

VII. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Race Discrimination Bill

47. Ms Margaret NG, Chairman of the Bills Committee, reported that the Bills Committee had held 34 meetings with the Administration and had received views from 34 deputations/individuals. The majority of members was dissatisfied with the approach adopted in the drafting of the Bill because of its narrow scope of application with numerous exemptions. These members were of the view that such an approach demonstrated the Administration's lack of commitment in addressing the problem. They had expressed serious doubt as to how far the Bill as presently drafted would bring about concrete improvements to the problem of racial discrimination in Hong Kong. They considered that, while the Bill could make certain individual discriminatory acts on the ground of race unlawful, it would not be able to prohibit longstanding discriminatory practices in the public sector arising from the implementation of policies and measures in the Government's performance of its functions or the exercise of its powers. The majority of members was also concerned that the exemptions provided for in the Bill would have the adverse effect of legitimizing discriminatory acts on the ground of race.

48. Ms NG elaborated that the Bills Committee had focused its deliberations on four main areas, namely (a) application of the Bill to the Government (clause 3); (b) scope of circumstances constituting indirect discrimination (clause 4); (c) exclusion of new arrivals from the Mainland from the scope of the Bill (clause 8); and (d) exemption provided for in clause 58 for the use, or failure to use, of particular languages in regard to the provision of goods, services and facilities.

49. Ms NG further reported that while the Administration had agreed to move amendments to clauses 3 and 4 of the Bill and had undertaken to compile

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administrative guidelines on promotion of racial equality in lieu of the imposition of a statutory duty on the Government to draw up a Race Equality Scheme in the Bill as requested by members, the majority of members considered that the amendments proposed by the Administration failed to fully address their concerns. They were also dissatisfied that the Administration had refused to make an undertaking to allocate additional resources for the implementation of measures formulated with reference to the administrative guidelines and to set up a high-level monitoring mechanism. In their view, this had demonstrated clearly the lack of the Government's commitment to eliminate racial discrimination.

50. Ms NG further said that the Bills Committee had agreed that she would move Committee Stage amendments (CSAs) on behalf of the Bills Committee in the four areas highlighted in paragraph 48 above with a view to enhancing safeguards to individuals against racial discrimination, and to impose a statutory duty on specified Government bureaux and departments to draw up a Race Equality Scheme.

51. Ms NG added that the Bills Committee would provide a written report at the next House Committee meeting. The report would include information on the other CSAs to be moved by the Bills Committee and the Administration respectively. The Administration had indicated to the Bills Committee that it intended to give notice for the Second Reading debate on the Bill to resume at the Council meeting on 9 July 2008. While many members had serious reservations about the Bill, some members had expressed support for the resumption of the Second Reading debate on the Bill. The Bills Committee did not object to the resumption of the Second Reading debate on the Bill.

52. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 28 June 2008.

(b) Report of the Bills Committee on Independent Police Complaints Council Bill

53. Mr LAU Kong-wah, Chairman of the Bills Committee, reported that the Bills Committee had almost completed its scrutiny work. The Bills Committee had scheduled two more meetings to discuss the CSAs. The Administration would give notice for the resumption of the Second Reading debate on the Bill at the Council meeting on 9 July 2008.

54. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 28 June 2008.

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(c) **Report of the Bills Committee on West Kowloon Cultural District Authority Bill**

(LC Paper No. CB(1) 1935/07-08)

55. Mrs Selina CHOW, Chairman of the Bills Committee, said that she had given a verbal report at the last House Committee meeting. A comprehensive written report was provided for the meeting.

56. Mrs CHOW further said that Ms Emily LAU, Members belonging to the Democratic Party, Mr Alan LEONG and Miss CHAN Yuen-han would move CSAs to the Bill. She reminded Members that the deadline for giving notice of CSAs was Saturday, 21 June 2008.

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

(d) **Report of the Bills Committee on Product Eco-responsibility Bill**

58. Miss CHOY So-yuk, Chairman of the Bills Committee, said that the Bills Committee supported the Bill in principle. The Administration would move CSAs to the Bill, and the Bills Committee would not move any CSAs. The Bills Committee would provide a written report at the next House Committee meeting.

59. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 28 June 2008.

(e) **Report of the Bills Committee on Air Pollution Control (Amendment) Bill 2008**

(LC Paper No. CB(1) 1946/07-08)

60. Ms Audrey EU, Chairman of the Bills Committee, reported that the Bill sought to cap the emissions of specified pollutants and facilitate the use of emission trading as a means to comply with the emission caps for power plants.

61. Ms EU further elaborated on the main issues of concern of the Bills Committee. She said that members were of the view that carbon dioxide should be included under the regulation of the Bill, but the Administration considered otherwise. Members agreed that she would move a CSA on behalf of the Bills Committee to include regulation of carbon dioxide in the Bill. Whether the CSA was within the scope of the Bill would be subject to the ruling of the President.

62. Ms EU further reported that the Bills Committee had in-depth discussions on the issue of emission trading. The Administration had taken on board members' views, and would move CSAs to stipulate that in any emission

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year, a local power plant might only acquire a total quantity of emission credits which was no more than 15% of the quantity of emission allowances allocated to it at the beginning of that emission year. Miss CHOY So-yuk had indicated that she would move a CSA to limit the validity period of an emission reduction project to three years. The Administration had also taken on board members' view that the Authority (i.e. the Director of Environmental Protection) should consult the Advisory Council on the Environment as soon as practicable upon receipt of an application for acquisition of emission credits, and the Panel on Environmental Affairs would also be consulted.

63. Ms EU added that Miss CHOY So-yuk had also indicated that she would move a CSA to include imprisonment as penalty for the provision of incorrect information.

64. The Chairman reminded Members that the deadline for giving notice of CSAs was Saturday, 28 June 2008.

Suspension of meeting

65. 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 be resumed to deal with the unfinished business on the Agenda after the Finance Committee meeting.

66. Mr Alan LEONG enquired whether it was procedurally in order to advance the presentation of the report of the Subcommittee on West Kowloon Cultural District Development on Phase III Study under agenda item VII (h), as a press conference on the report was scheduled to be held at 3:00 pm.

67. The Chairman said that she could not accede to Mr LEONG's request as the House Committee meeting had to be suspended at 3:00 pm. She added that Mr LEONG could proceed with holding the press conference as scheduled before presentation of the Subcommittee's report to the House Committee.

68. In response to Mr CHAN Kam-lam, the Chairman said that the House Committee would be resumed immediately after the Finance Committee meeting.

(The meeting was suspended at 3:01 pm and resumed at 5:00 pm.)

(f) Report of the Subcommittee on Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008

69. Ms Audrey EU, Chairman of the Subcommittee, reported that the Amendment Regulation sought to revise the chemical oxygen demand (COD)

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values and the trade effluent surcharge (TES) rates with a view to increasing the operating cost recovery for TES from the current 84% to 100% by 2009-2010.

70. Ms EU further reported that the Subcommittee had held six meetings. While agreeing generally with the polluter-pays principle in the provision of sewage services in Hong Kong, members had expressed concern about the assessment mechanism of TES rates and apportionment of the costs in treating domestic sewage and trade effluents. Members considered it more equitable to use the median, instead of the mean, COD value as the generic value for assessment. Members had also expressed dissatisfaction that the Administration had not informed the affected trades of the upward adjustment of TES rates.

71. Ms EU elaborated that the Subcommittee had noted the concern expressed by the restaurant trade about the high cost of conducting reassessment on TES which, under the law, had to be borne by the restaurant operators seeking reassessment. As amendments in this regard would have charging effect, the Administration agreed to move amendments to further extend the validity period of a reassessed COD value/TES rate from two to three years with a view to lowering the cost of the trade.

72. Ms EU further said that the Amendment Regulation would come into effect on 1 August 2008. To ensure fairness in applying the existing and new TES rates to the TES accounts during the transitional period, the Administration had taken on board members' suggestion and would move amendments to apportion the volume of water consumption during the billing period on a pro rata basis using 31 July 2008 as the cut-off date so that the existing and new generic TES rates could be applied to the first part ending 31 July 2008 and the second part after that date respectively.

73. Ms EU further reported that Mr Tommy CHEUNG considered the TES rate matrices unfair and had indicated that he would move amendments in this regard. At the request of Mr CHEUNG, the Subcommittee would hold a further meeting on 23 June 2008. Ms EU added that the Subcommittee would provide a written report at the next House Committee meeting.

74. The Chairman reminded Members that as the deadline for amending the Regulation was 2 July 2008, the deadline for giving notice of amendments, if any, was Tuesday, 24 June 2008.

(g) **Further report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions**

(LC Paper No. CB(1) 1926/07-08)

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75. Ms Margaret NG Chairman of the Subcommittee, said that the Subcommittee had provided its first report to the House Committee on 18 May 2007. The Administration had provided a written response to the report in August 2007. Since then, the Subcommittee had followed up the relevant constitutional and legal issues with the policy bureau concerned and the Secretary for Justice, and had also studied 26 gazetted Regulations referred by the House Committee.

76. Ms NG further reported that as section 3 of the United Nations Sanctions Ordinance did not enable the Legislature to have a role in the whole regulation-making process, members remained doubtful of and gravely concerned about the constitutionality of the existing arrangement. It was the Subcommittee's view that even on the assumption that the existing arrangement was constitutional, improvement to the existing regulation-making process was desirable to enhance transparency, accountability and compliance with the due process in enacting legislation. Following in-depth exchanges of views with the Administration, the Subcommittee had put forward the following concrete recommendations for the endorsement of the House Committee as set out in paragraphs 28(a) and (b) of the paper -

- (a) the Administration should include more background information in the LegCo Brief in respect of each regulation made and gazetted under the United Nations Sanctions Ordinance to facilitate scrutiny by Members ; and
- (b) a subcommittee should be set up under the House Committee to scrutinize such regulations.

77. Ms NG further said that the Administration generally had no objection to the above recommendations of the Subcommittee. The Subcommittee, however, noted that the Administration still held different views from the Subcommittee on certain constitutional and legal issues. In this regard, further written views from the Administration would be welcomed.

78. Ms NG added that the Subcommittee had also agreed to present its report to the Council and seek the President's consent for her, as Chairman of the Subcommittee, to address the Council on the report at the Council meeting on 2 July 2008.

79. Members endorsed the recommendation of the Subcommittee to put in place a mechanism to facilitate scrutiny by LegCo of regulations made under the United Nations Sanctions Ordinance. Members agreed that the request for additional information to be provided in the LegCo Brief on such regulations should be conveyed to the Administration. Members also agreed in principle

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that a subcommittee should be set up to deal with such regulations and the matter should be referred to the House Committee for consideration in the Fourth LegCo.

(h) Report of the Subcommittee on West Kowloon Cultural District Development on Phase III Study

80. Mr Alan LEONG, Chairman of the Subcommittee, reported that following the publication of its Phases I and II Study Reports in July 2005 and January 2006 respectively, the Subcommittee had completed its Phase III Study Report. The main areas covered by the Phase III Study Report included the planning aspects of the West Kowloon Cultural District (WKCD), the contents and implementation aspects of the Core Arts and Cultural Facilities, legislative matters for the establishment of a statutory body on WKCD and the financial arrangements for the WKCD project.

81. Mr LEONG further reported that the House Committee had agreed to allocate a debate slot to him as the Subcommittee's Chairman to move a motion on the Phase III Study Report for debate at the Council meeting on 25 June 2008, to enable Members to express their views and the Administration to provide its response before the resumption of the Second Reading debate on the WKCD Authority Bill and the consideration by the Finance Committee of the upfront endowment funding proposal.

82. Mr LEONG requested to put on record the Subcommittee's gratitude to the following parties -

- (a) the Administration, in particular the Home Affairs Bureau ably represented by its Deputy Secretary, Ms Esther LEUNG, for having attended most meetings of the Subcommittee and provided the necessary information to facilitate the Subcommittee's deliberations;
- (b) various organizations and individuals for giving views at meetings of the Subcommittee and/or providing written submissions; and
- (c) the Specialist Adviser Consultancy team of the University of Hong Kong for accomplishing the tasks entrusted by the Subcommittee within a very tight time frame and for providing perceptive observations and discerning comments to the Subcommittee.

83. Mr LEONG further expressed his thanks to the team of the Secretariat staff led by Ms Pauline NG for providing professional service to the

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Subcommittee in completing its work. He added that as the Subcommittee's Chairman, he would also like to thank members of the Subcommittee for their participation and dedication.

VIII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2312/07-08)

84. The Chairman said that there were four Bills Committees, six subcommittees under the House Committee and three subcommittees under Panels in action.

IX. Improvement to operation of committees

(Letter dated 16 June 2008 from Hon Emily LAU to the Chairman of the House Committee (LC Paper No. CB(2) 2339/07-08(01))

85. Ms Emily LAU referred Members to her letter, and said that the Subcommittee on Human Rights Protection Mechanisms under the Panel on Home Affairs presented its report to the Panel at the meeting on 13 June 2008. The Subcommittee proposed that a motion on its report should be moved by its Chairman, Mr Albert HO, for debate at the Council meeting on 9 July 2008. As objection to the proposal was raised at the Panel meeting, the proposal was put to vote and was negatived. She pointed out that some Panel members who opposed the proposal were members of the Subcommittee. However, these members had not conveyed their views to the Subcommittee or attended the Subcommittee meeting when the proposal was discussed. They simply considered it unnecessary to hold a motion debate on the Subcommittee's report for the reason that there existed extensive mechanisms in Hong Kong for the protection of human rights. While appreciating that these members were entitled to their views, Ms LAU was strongly of the view that they should have expressed their objection when the Subcommittee discussed the proposal. She considered it unsatisfactory for these members to have opposed the proposal only at the Panel meeting after it had been endorsed by the Subcommittee. She pointed out that there were numerous occasions in the past where subcommittees under Panels had sought the House Committee's agreement for allocation of a debate slot to move a motion on the subcommittees' reports. As it was rather unusual for a Panel not to support the proposal of its subcommittee for making such a request to the House Committee, she considered it necessary to draw her concern to the attention of the House Committee. She stressed that Members should respect each other for diverse views on a matter.

86. The Chairman acknowledged Ms Emily LAU's concern in that the members involved should have raised their objection to the proposal when it

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was considered by the Subcommittee, instead of at the Panel meeting after the proposal had been endorsed by the Subcommittee, resulting in a waste of time spent and work done by the Subcommittee. However, the Chairman pointed out that there had been occasions in the past where a committee's decision on a matter did not receive support from the Council.

87. Ms Emily LAU said that at least Members had the opportunity to debate the matter in the Council, but this was not the case for the Subcommittee's report. She hoped that similar incidents would not recur in future.

88. The Chairman said that she shared the view that Members should express their views on a matter as early as possible. She urged Members to take note of Ms LAU's concern and to make improvement in this regard.

X. Any other business

89. There being no other business, the meeting ended at 5:15 pm.

Council Business Division 2
Legislative Council Secretariat

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