

立法會
Legislative Council

LC Paper No. CB(2) 262/08-09

Ref : CB2/H/5/08

House Committee of the Legislative Council

**Minutes of the 5th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 7 November 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
Dr Hon David LI Kwok-po, GBM, GBS, JP
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
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 LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, 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 Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC

Mrs Percy MA	Assistant Secretary General (Special Duty)
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms YUE Tin-po	Chief Council Secretary (1)3
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
Miss Kitty CHENG	Assistant Legal Adviser 5
Ms Amy YU	Senior Council Secretary (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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I. Confirmation of verbatim transcript/minutes of meetings

- (a) **Verbatim transcript of the special meeting held on 13 October 2008**
(LC Paper No. CB(2) 216/08-09)
- (b) **Minutes of the 4th meeting held on 24 October 2008**
(LC Paper No. CB(2) 197/08-09)

The two sets of verbatim transcript/minutes of meetings were confirmed.

II. Matters arising

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

Letter from CS concerning the Council meeting on 15 October 2008

2. The Chairman said that she had conveyed to CS the following views of Members expressed at the last House Committee meeting in relation to CS's letter to the President of the Legislative Council (LegCo) concerning the behaviour of certain Members at the Council meeting on 15 October 2008:

- (a) Members would wish to know the specific concern of the Administration and to ascertain whether the concern was on the security of public officers attending LegCo meetings or on the effect of certain behaviours on the law-making process;

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- (b) Members also wished to find out whether CS had expected the issue to be handled by the President or by the Council; and
 - (c) should the Administration have any concern or view about the security of officials at the LegCo Building, the matter should be raised with The Legislative Council Commission.
3. The Chairman further said that CS had explained that the Administration was concerned about Members walking up to the Chief Executive's podium uninterrupted and throwing objects in the Chamber. CS had also stressed that there should be mutual respect between Members and public officers attending LegCo meetings and they should be able to discuss issues in a dignified and solemn environment.
4. Dr Margaret NG said that she was given to know that in a current affairs television programme, the President revealed that he had been alerted by staff of the LegCo Secretariat before the relevant Council meeting of some Members bringing some objects into the LegCo Building which could be thrown. The President informed the Chief Executive (CE) accordingly. CE was reported to have suggested to the President to suspend the Council meeting should the objects belong to certain types. Dr NG was concerned whether CE should advise the President on matters concerning maintenance of order at Council meetings, and whether the President should discuss with CE on how he would maintain order at Council meetings prior to the meetings. She considered it necessary to clarify the matters.
5. The Chairman said that the matters raised by Dr Margaret NG were concerned with media reports. As she had not watched the television programme, she could not verify its accuracy. She was concerned whether LegCo should take actions in response to media reports.
6. Dr Margaret NG said that she had not watched the programme as well, but there should be no doubt as to what the President had said. She requested the Chairman to ask CS whether CE should advise the President on matters concerning maintenance of order at Council meetings.
7. At the invitation of the Chairman, Secretary General (SG) suggested that the Secretariat would have to ascertain what had been said by the President at the television programme before Members could decide what view should be relayed to CS. The Chairman shared SG's view.
8. Mr Albert HO said that apart from conveying Members' views to CE through CS, he considered that the Chairman should also remind the President that he should decide by himself how Council meetings should be conducted.

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Members belonging to the Democratic Party were of the view that the President himself should make such decisions.

9. Ms Emily LAU echoed Mr Albert HO's view.

10. The Chairman considered it more appropriate for Members of different political groupings and affiliations to relay their views to the President direct.

11. Dr Margaret NG said that in order not to waste time to revisit the subject, she suggested that after ascertaining what had been said by the President at the television programme, the Chairman could relay her concern to CS. Members agreed.

Frequency and duration of CE's Question and Answer (CE's Q & A) Sessions

12. Ms Emily LAU enquired whether CE had responded to Members' earlier requests for increasing the frequency and extending the duration of CE's Q & A Sessions.

13. The Chairman said that CE had yet to respond. Indeed, she had reiterated Members' requests when she moved the Motions of Thanks at the relevant Council meeting. She would follow up the matter with CS.

Introduction of bills

14. Mr James TO said that the Administration should introduce bills in its Legislative Programme as early as possible. He was concerned about bunching of bills towards the end of a session or a term as this would affect the quality of scrutiny. In his view, non-controversial bills of a technical nature, such as those originated from recommendations made by the Law Reform Commission, should be introduced as early as possible.

15. The Chairman said that she had also raised this concern when she moved the Motions of Thanks but the Administration had not addressed the concern in its response. She agreed to reiterate the concern to CS.

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)

Public Health and Municipal Services (Amendment) Bill 2008
(*LC Paper No. LS 11/08-09*)

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16. The Chairman said that the Bill sought to empower the Director of Food and Environmental Hygiene to make orders, among others, to recall food supplied for the protection of public health, and provide for incidental and connected matters.

17. The Chairman further said that the Panel on Food Safety and Environmental Hygiene had been briefed on the legislative proposals at its meeting on 23 October 2008. While members were supportive of the Bill, they had also expressed various concerns.

18. Mr Tommy CHEUNG considered it necessary to form a Bills Committee to study the Bill.

19. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr Fred LI, Mr Tommy CHEUNG, Mr Vincent FANG and Ms Cyd HO.

20. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

(b) **Legal Service Division report on subsidiary legislation gazetted on 24 October 2008 and tabled in Council on 29 October 2008**
(*LC Paper No. LS 8/08-09*)

21. The Chairman said that a total of five items of subsidiary legislation were gazetted on 24 October 2008 and tabled in the Council on 29 October 2008.

22. Regarding the Census and Statistics (Quarterly Survey of Service Industries) (Amendment) Order 2008, the Chairman said that it sought to revise the scope of data collected for the purpose of the quarterly survey of service industries with a view to aligning with the classification and definition of service industries with the recently revised international standards. The Order would come into operation on 2 January 2009.

23. Mr James TO was concerned whether the introduction of new definitions such as that for "service industries" as proposed in the Amendment Order would have any adverse impact on the comparability of data collected under the current and new classifications, and whether the data computed under the current classifications could be retrieved after the amendments. The Chairman suggested that a written response be sought from the Administration on Mr TO's concern. Members agreed.

24. Regarding the Road Traffic (Traffic Control) (Designation of Prohibited and Restricted Zones) (Amendment) Notice 2008, the Chairman said that it

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provided for certain changes to the designations of prohibited and restricted zones in the Hong Kong International Airport. The Notice would come into operation on 19 December 2008.

25. Mr James TO said that the Panel on Transport had not been consulted on the Notice. He was concerned whether the relevant trades had been consulted. The Chairman suggested that written information be sought from the Administration in this regard. Members agreed.

26. Members did not raise any queries on the other three items of subsidiary legislation.

27. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 26 November 2008.

(c) Legal Service Division report on subsidiary legislation gazetted on 31 October 2008

(LC Paper No. LS 10/08-09)

[Previous papers:

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); and

Extract from the minutes of the 28th House Committee meeting on 20 June 2008 (LC paper No. CB(2) 200/08-09(01))]

28. The Chairman said that two items of subsidiary legislation, i.e. the United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2008 and the United Nations Sanctions (Federal Republic of Yugoslavia) (Prohibition on Terrorist Activity) Regulation (Repeal) Regulation, which were not required to be tabled in the Council, were gazetted on 31 October 2008. The two Regulations were to give effect to resolutions regarding sanctions adopted by the Security Council of the United Nations (UNSC).

29. The Chairman added that the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (the Subcommittee), chaired by Dr Margaret NG, was appointed in the Third LegCo to examine the arrangement for implementing the sanctions resolved by UNSC. The Subcommittee recommended in its report to the House Committee meeting on 20 June 2008 that a subcommittee be set up under the House Committee in the Fourth LegCo to deal with regulations made under section 3 of the United Nations Sanctions Ordinance (UNSO). The House Committee agreed in principle that a subcommittee should be set up to deal with such regulations and the matter should be further considered by the House Committee in the Fourth LegCo.

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30. Dr Margaret NG considered that a subcommittee should be appointed to deal with regulations made under section 3 of UNSO as an important principle was at stake. She elaborated that under the current mechanism, when UNSC made a resolution regarding sanctions and called on the People's Republic of China, a member of UN, to apply those sanctions, the Ministry of Foreign Affairs might issue instructions to CE as to the implementation of the sanctions specified in the resolutions, and CE had to make regulations to give effect to such instructions. Pursuant to section 3(5) of UNSO, such regulations were not subject to amendment by LegCo. The Subcommittee was gravely concerned that section 3(5) of UNSO had deprived LegCo of its constitutional role in scrutinizing and, where necessary, amending subsidiary legislation.

31. Dr NG further said that the Subcommittee had also expressed concern about the undesirable situation of long time gaps between the passing of relevant resolutions by UNSC and the gazettal of some of the regulations. A case in point was the United Nations Sanctions (Federal Republic of Yugoslavia) (Prohibition on Terrorist Activity) Regulation (Repeal) Regulation. The relevant resolution to terminate the prohibition against arming and training for terrorist activity in the former Federal Republic of Yugoslavia was adopted by UNSC on 10 September 2001; yet the Regulation to give effect to the resolution was gazetted only recently. Given that the Administration had not taken on board the Subcommittee's suggestions, other than that on the provision of an explanatory paper comparable to a LegCo Brief in respect of each gazetted Regulation, she considered it necessary to form a subcommittee in the Fourth LegCo to deal with the Regulations made under UNSO.

32. The Chairman proposed that a subcommittee be appointed under the House Committee to deal with regulations made under section 3 of UNSO. Members agreed. The following Members agreed to join: Dr Margaret NG, Ms Cyd HO and Miss Tanya CHAN.

33. Members also agreed that the two Regulations be referred to the Subcommittee.

IV. Business for the Council meeting on 12 November 2008

(a) **Questions**
(*LC Paper No. CB(3) 111/08-09*)

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

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

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

(c) **Government motion**

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

(d) **Members' motions**

(i) **Proposed resolution to be moved by Ir Dr Hon Raymond HO Chung-tai under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382)**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 95/08-09 dated 30 October 2008.)

37. The Chairman said that Ir Dr Raymond HO, Chairman of the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products, would move a motion at the Council meeting to seek the Council's authorisation under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) for the Subcommittee to exercise the powers conferred by section 9(1) of the Ordinance for the purpose of studying issues arising from Lehman Brothers-related minibonds and structured financial products and making recommendations where necessary.

38. The Chairman further said that the speaking time limit for each Member was 15 minutes.

(ii) **Motion on "Alleviating the burden of fuel costs on the public and relevant trades"**

(Wording of the motion issued vide LC Paper No. CB(3) 99/08-09 dated 30 October 2008.)

(iii) **Motion on "Supporting small and medium enterprises to tide over the financial tsunami"**

(Wording of the motion issued vide LC Paper No. CB(3) 102/08-09 dated 30 October 2008.)

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

40. The Chairman further said that the deadline for giving notice of amendments to the motions had expired on 5 November 2008.

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Arrangement for the Council meeting on 12 November 2008

41. Ms Emily LAU enquired about the arrangement for the Council meeting on 12 November 2008.

42. At the invitation of the Chairman, SG said that the Secretariat had issued a circular to inform Members that should the President be of the opinion that it was unlikely that the business on the Agenda of the meeting could be finished by about midnight on 12 November 2008, he would suspend the meeting at about 10:00 pm and order that it be resumed on the following day at 9:00 am sharp for the continuation of business.

V. Business for the Council meeting on 19 November 2008

(a) Questions

(LC Paper No. CB(3) 112/08-09)

43. 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

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

(c) Government motion

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

(d) Members' motions

(i) Motion on "Comprehensively improving the public dental out-patient services and the dental care scheme"

(Wording of the motion issued vide LC Paper No. CB(3) 118/08-09 dated 6 November 2008.)

46. The Chairman said that the above motion would be moved by Mr WONG Kwok-hing and the wording of the motion had been issued to Members.

(ii) Motion to be moved by Hon CHAN Hak-kan

(Wording of the motion issued vide LC Paper No. CB(3) 119/08-09 dated 6 November 2008.)

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47. The Chairman said that the subject of the motion to be moved by Mr CHAN Hak-kan was "Concern about the cross harbour tunnels failing to divert traffic flows effectively and their high tolls".

48. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 12 November 2008.

VI. Report of Bills Committees and subcommittees

Report of the Subcommittee on Harmful Substances in Food (Amendment) Regulation 2008

(LC Paper No. CB(2) 198/08-09)

49. The Deputy Chairman, in his capacity as Chairman of the Subcommittee, reported that the Subcommittee had completed its scrutiny work, and supported an amendment to be moved by the Administration to add definitions for the terms "milk" and milk beverage" in the Amendment Regulation to reflect its policy intention more clearly in law and to facilitate compliance by the trade. He referred Members to paragraphs 8 to 22 of the Subcommittee's report for details of its deliberations.

50. The Chairman reminded Members that the deadline for giving notice of amendments, if any, was Wednesday, 19 November 2008.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 199/08-09)

51. The Chairman said that there was one Bills Committee, five subcommittees under the House Committee (i.e. two subcommittees on subsidiary legislation and three subcommittees on other issues) and one subcommittee under a Panel in action.

VIII. Proposal to appoint a subcommittee under the House Committee on support for small and medium enterprises

(Letter dated 30 October 2008 from Hon Andrew LEUNG Kwan-yuen to the Chairman of the House Committee (LC Paper No. CB(2) 200/08-09(02))

52. Mr Andrew LEUNG said that there was wide public concern about the impact of the financial tsunami on small and medium enterprises (SMEs). Apart from tightening their credit to SMEs, banks had also delayed reimbursement of payments for credit card transactions, which had huge impact on SMEs in the service sector. Moreover, many SMEs which had set up

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factories in the Pearl River Delta were also facing great financial difficulties. Given the dire circumstances faced by SMEs, it was incumbent upon LegCo Members to study how the Government could provide SMEs with more support to enable them to tide over this difficult period.

53. Mr LEUNG further said that he had proposed the appointment of a subcommittee under the House Committee on support for SMEs as the matter straddled the policy areas of a number of policy bureaux. Apart from the Commerce and Economic Development Bureau, the matter was also relevant to the Constitutional and Mainland Affairs Bureau in respect of the liaison between the Hong Kong Government and the Mainland Authorities on support measures for SMEs, the Financial Services and the Treasury Bureau for matters concerning bank credit policies, the Information and Technology Bureau in relation to information technology, and the Food and Health Bureau regarding support for the catering sector and the proposal on the development of medical tours. He appealed to Members to support his proposal.

54. Mr CHAN Kam-lam expressed support for the proposal for the appointment of a subcommittee under the House Committee on support for SMEs, in view of the grave difficulties faced by SMEs in the midst of the current financial turmoil. As the matter straddled the policy areas of the Panel on Commerce and Industry (CI Panel) and the Panel on Economic Development (ED Panel), he considered that a dedicated subcommittee should be set up to study ways to help SMEs. In his view, the relevant trades, aside from the Government, should also be involved in providing assistance to SMEs. Although a motion debate on SMEs would be held at the Council meeting on 12 November 2008, it would not have any legislative effect and the Government was not bound to take any follow up actions after the motion debate. A subcommittee formed under the House Committee would provide a dedicated forum for LegCo Members to discuss with the relevant policy bureaux on ways to resolve the difficulties faced by SMEs. It could also consider organizing duty visits to Shenzhen, Dongguan and the Pearl River Delta area to facilitate the exchange of views between Members and the relevant Mainland Authorities on ways to help SMEs to cope with their difficulties.

55. Mr LEE Wing-tat said that Members belonging to different political parties and groupings supported the provision of assistance to SMEs. However, according to the established practice, a matter which fell within the purview of a Panel should be discussed by the Panel first. He believed that the Chairman of the CI Panel would not turn down requests for convening special meetings to discuss the matter as soon as practicable. Should the CI Panel consider it unable to follow up the matter expeditiously or efficiently, it could propose the appointment of a joint subcommittee under the relevant Panels or the matter be discussed by the House Committee. Citing the West

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Kowloon Cultural District project as an example, he said that a joint meeting would be held between the Panel on Home Affairs and the Panel on Development on 14 November 2008 to discuss how to follow up the project. Should the two Panels consider it necessary to set up a subcommittee under the House Committee on the project, they could then raise the matter for discussion in the House Committee. In his view, this was the appropriate way of handling the matter.

56. Mr Vincent FANG, Chairman of the CI Panel, said that the Panel had held a special meeting on 27 October 2008 to discuss the Administration's proposed enhancement measures to the SME Funding Schemes with a view to strengthening support to SMEs. More than 30 SME associations had been invited to attend the meeting to give views on the subject. The proposed enhancement measures were subsequently approved by the Finance Committee on 28 October 2008. The Panel would further discuss the progress update on the support measures for SMEs at its regular meeting to be held on 18 November 2008. He stressed that where necessary, the Panel could convene a special meeting before 18 November 2008 to discuss the subject.

57. Mr LEE Cheuk-yan considered it inappropriate for the House Committee to form a subcommittee if the CI Panel had not discussed the formation of a subcommittee under the Panel to examine the issue.

58. In response to the Chairman, Mr Vincent FANG clarified that the CI Panel had not discussed the setting up of a subcommittee on support for SMEs.

59. Mr LEE Cheuk-yan considered that the matter should be followed up by the CI Panel, and it would not be appropriate to set up a subcommittee under the House Committee unless Members were of the view that the Panel was not able to follow up the matter. He pointed out that certain committees had to be set up under the House Committee in the past because the Rules of Procedure (RoP) then did not provide for the appointment of subcommittees by two or more Panels. However, RoP had been amended a few years ago to provide for the formation of joint subcommittees by two or more Panels to study matters which straddled the policy areas of two or more Panels. He reiterated that it would be best to leave the matter to the CI Panel, which might also follow up the matter jointly with the ED Panel if considered necessary. He stressed that Members should respect the CI Panel and let it decide whether to set up a subcommittee, instead of bypassing it and proposing the appointment of a subcommittee under the House Committee.

60. The Chairman drew Members' attention to Rule 77(9A) of RoP which provided that two or more Panels might, if they considered appropriate, appoint joint subcommittees to study any matter of common interest to the relevant Panels and to report to the Panels.

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61. Mr Ronny TONG recalled that during discussions on the appointment of subcommittees under the House Committee in the Third LegCo, Mr James TIEN, former Chairman of the Liberal Party, had expressed strong objection to proposals for the appointment of subcommittees under the House Committee, on the ground that Members should examine whether the matter could be followed up by the relevant Panels or their subcommittees, and that joint subcommittees could be appointed to deal with issues straddling the purview of more than one Panel. He had respected such views of the Liberal Party. He requested Mr Andrew LEUNG to explain the reasons for departing from the practice of appointing a subcommittee under the relevant Panel(s) to deal with the matter.

62. Ms Emily LAU said that according to the established practice, it was for the relevant Panels to examine issues under their purview and the matter would not be brought to the House Committee for discussion unless strictly necessary. There had been media reports on conflicts between members and former members of the Liberal Party. In her view, whether these reports were true or not, Members should respect the practices and arrangements for conducting Council business. She had joined the CI Panel in the current session as many issues within its remit had to be followed up. She pointed out that officials from the Hong Kong Monetary Authority had been invited to attend the special meeting of the Panel on 27 October 2008. Where necessary, officials from other relevant policy bureaux and other relevant stakeholders could be invited to join the Panel's discussions on SMEs.

63. Mr Jeffrey LAM expressed disapproval of Ms Emily LAU's remarks on party conflict. The purpose of raising the proposal for the appointment of a subcommittee under the House Committee was to come up with ways to assist SMEs and Hong Kong's economy. He stressed that it was provided in RoP that a Member should not impute improper motives to another Member, and Members should focus their discussion on the issue under consideration.

64. Mr LAM further said that Hong Kong enterprises and their business on the Mainland had been struck by the financial tsunami. The manufacturing, retail and catering sectors had been particularly hard hit. It was reported in the media that Premier WEN Jiabao had proposed a number of measures to help Hong Kong business in the Pearl River Delta to cope with the financial tsunami. Apart from the CI Panel and the ED Panel, the matter also fell within the purview of the Panel on Constitutional Affairs (CA Panel) as many of the proposed support measures for SMEs involved cross-boundary co-operation between the Hong Kong Government and Mainland Authorities, which was one of the responsibilities of the Constitutional and Mainland Affairs Bureau. A case in point was the provision of assistance for food manufacturers on the Mainland owned by Hong Kong enterprises. The matter

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also straddled the policy area of the Panel on Financial Affairs (FA Panel) as bank credit policy was involved. There was a proposal that banks on the Mainland could provide credit support to Hong Kong enterprises with business on the Mainland. Given that the matter straddled the policy areas of a number of Panels, he considered it more appropriate to appoint a dedicated subcommittee under the House Committee to study the matter.

65. Mrs Sophie LEUNG also expressed disapproval of Ms Emily LAU's remarks. She said that the mission of LegCo Members was to serve the community, and it was inappropriate to impute improper motives to another Member. She recognized that under the normal arrangement, the issue should be dealt with jointly by the relevant Panels, such as the CI Panel, ED Panel, FA Panel and CA Panel. However, given the urgency of the situation and the dire circumstances faced by SMEs, extraordinary measures were warranted. She had received many requests from SMEs for assistance. Many of them, including those which had enjoyed good relationship with banks for decades, complained about banks tightening their credit by at least 30%. Some SMEs had reflected that notwithstanding a growth in their business, they did not have adequate capital for expansion. The collapse of SMEs would bring about unemployment of workers. She reiterated that unconventional measures should be adopted during unprecedented situations. She appealed to Members and Chairmen of relevant Panels to support the proposal for the appointment of a subcommittee under the House Committee with a view to tackling the matter expeditiously. She added that in parallel, the relevant Panels could continue discussions on the matter.

66. Mr Albert HO said that he was not interested in surmising the motives of other Members. The important thing was to deal with the matter in accordance with the established practices and arrangements for examining policy issues. As support for SMEs to overcome the difficulties was the core work of the CI Panel, he considered it inappropriate for the matter to be taken away from its remit, unless the Panel had indicated that it could not cope with the task. He pointed out that even though bank credit policy, which fell within the ambit of the FA Panel, was involved, the crux of the matter was difficulties faced by SMEs. As such, he considered it reasonable for the CI Panel to take the lead in studying the matter, and it would be up to the Panel to decide on the need to convene joint Panel meetings or to invite the relevant Panels to join its discussions. Without ruling out the possibility of appointing a subcommittee under the House Committee in future, he considered it appropriate for the CI Panel to follow up the matter first.

67. The Deputy Chairman said that it would not pose any problem even if the subject of support for SMEs would require the participation of various bureaux which were not the corresponding policy bureau of the CI Panel. By way of illustration, he elaborated that the enforcement of the fixed penalty for

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littering, which was within the purview of the Panel on Food and Environmental Hygiene, involved seven government departments, including the Housing Department and the Police. However, it did not follow that the issue would fall within the remit of the Panel on Housing and the Panel on Security. The Panel on Food and Environmental Hygiene had all along taken the lead in the discussion of the issue, and the Directors of all relevant bureaux had been invited for the discussions. Likewise, the fact that the subject of SMEs straddled the policy areas of various policy bureaux did not mean that all the corresponding Panels should take up the matter. As the subject clearly fell within the ambit of the Panel, the Panel had the responsibility to tackle it and should invite all relevant policy bureaux for discussions.

68. The Deputy Chairman further said that it was reasonable and proper for the CI Panel to decide whether it was necessary to appoint a subcommittee. Where appropriate, the Panel could make a recommendation to the House Committee for the appointment of a subcommittee under the House Committee to study the matter. Given the urgency of the matter, the CI Panel could consider convening an urgent special meeting the following week to discuss the need to appoint a subcommittee under the Panel and, where necessary, the approval of the House Committee could be sought for the setting up of a subcommittee under the House Committee at its next meeting. He stressed that the House Committee should only consider the appointment of a subcommittee after the CI Panel had discussed how to handle the matter.

69. Dr Priscilla LEUNG said that apart from the dire situation faced by SMEs in the financial tsunami, she was also concerned about the exacerbating problem of unemployment and the need to provide training to workers to acquire new or enhanced skills. The education sector could give views in respect of the latter. She considered it important to study the matter from different perspectives. She was concerned that the CI Panel might look at the matter mainly from the business perspective without attending to the employment problem brought about by the financial tsunami. As the matter straddled the policy areas of a number of Panels, she considered it necessary to adopt an integrated approach in tackling it. As such, she was open on the appointment of a dedicated subcommittee under the House Committee.

70. Dr PAN Pey-chyou said that Hong Kong's economy was facing dire challenges, with all sectors and strata of society being adversely affected by the "once-in-a-century" financial tsunami. SMEs were the lifeblood of Hong Kong. Their collapse would affect not only the business owners but also all the employees concerned. He further said that he and Mr IP Wai-ming had met with the Catering and Hotels Industries Employees General Union the day before the House Committee meeting, and workers were plagued by worries of imminent waves of massive layoffs. He stressed that unprecedented times called for unprecedented actions. Instead of adhering to the normal practice,

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Members should contemplate taking unconventional measures to tackle the challenges expeditiously. The appointment of a subcommittee under the House Committee would allow Members from different sectors to contribute their expertise to resolving the difficulties. After the crisis was over, the subcommittee could be dissolved.

71. Referring to the views of Dr Priscilla LEUNG and Dr PAN Pey-chyou that the proposed subcommittee should also study issues of employee retraining and unemployment brought about by the financial tsunami, Mr LEE Cheuk-yan said that should such views be adopted, the scope of the subcommittee would become too wide and unmanageable. Such a subcommittee would no longer work to identify support for SMEs, but to save Hong Kong's economy. He stressed that Members should deal with the urgent situation in a cool-headed manner. In his view, the most efficient and effective way of helping SMEs was to appoint a subcommittee under the CI Panel immediately, and to invite all relevant policy bureaux for discussions. Although only members of the Panel could join the subcommittee, this should not be an issue as Members who were concerned about SMEs should have joined the Panel already. Alternatively, the CI Panel could handle the matter by convening a series of special meetings. He reiterated that leaving the matter to the Panel would be the most efficient means of helping SMEs.

72. Mrs Sophie LEUNG considered the example quoted by the Deputy Chairman on the enforcement work for the fixed penalty for littering inappropriate, as the current crisis faced by SMEs was urgent and time-critical. She pointed out that despite the enhancement measures to the SME Funding Schemes approved by the Finance Committee the week before, there was no sign of any credit relaxation by banks for SMEs. She stressed that the most important thing was to provide an efficient forum for discussions on measures to help SMEs expeditiously. Should Members consider the CI Panel the most appropriate forum, the Panel must act expeditiously. The proposal for the appointment of a subcommittee under the House Committee would allow all interested Members to join the subcommittee. In her view, Members' views on the proposal would be like a witch mirror reflecting their genuine concern or otherwise about SMEs. The public could clearly see for themselves which Members were genuinely committed to helping SMEs.

73. Mr Ronny TONG expressed disapproval of Ms Emily LAU's remarks on party conflicts and Mrs Sophie LEUNG's remarks that Members' stance on the proposal was like a witch mirror. He did not agree with the assumptions of some Members that the CI Panel was unable to handle the matter efficiently, and Members who objected to the appointment of a subcommittee under the House Committee were not concerned with the difficulties faced by SMEs. He considered both of these assumptions fallacious. In his view, the CI Panel was the most appropriate forum to follow up the matter expeditiously. The

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Panel could convene an urgent meeting within a very short time, say, on the following Monday, to discuss the matter. On the other hand, should a subcommittee be appointed under the House Committee, a circular would have to be issued to invite Members to join the subcommittee, and it would take some time before the first meeting could be convened. He also echoed the Deputy Chairman's view that the established practices and procedures for conducting Council business which had been proven efficient and effective should be followed. He sought clarification from the Chairman of the CI Panel as to whether he was agreeable to holding special Panel meetings.

74. Mr Vincent FANG was glad that Members were so deeply concerned about the plight of SMEs. Experience showed that officials of relevant bureaux and representatives of financial institutions concerned were ready to attend meetings of the Panel to discuss the matter. The Panel had held a special meeting on 27 October 2008 to discuss the matter and more than 30 deputations had been invited to attend. The Panel would further discuss the progress update on the support measures for SMEs at its regular meeting to be held on 18 November 2008. He had not received any requests for discussing the matter urgently or advancing the meeting scheduled for 18 November 2008. He stressed that where necessary, the Panel could convene a special meeting before 18 November 2008 to discuss the subject.

75. Mr Albert HO said that Mr Vincent FANG had made a report on the work of the CI Panel on the matter. He considered the remarks made by some Members unfair to the Panel and its Chairman as the Panel had been following up the matter. He echoed the views of Mr LEE Cheuk-yan, and considered it inappropriate for a subcommittee to be appointed under the House Committee at the present stage.

76. Mrs Sophie LEUNG clarified that she had not criticized the CI Panel or its Chairman for the way in handling the matter.

77. Dr Priscilla LEUNG was of the view that the remarks of Mr Albert HO were unfair. She considered that Members should not impute other Members' motives, otherwise it would discourage free discussions. She stressed that as in the case of the appointment of the Subcommittee to Study Issues Arising from Lehman Brothers Minibonds and Structured Financial Products (the Lehman Brothers Subcommittee), the appointment of a subcommittee under the House Committee was not intended to resolve each and every problem but to provide a dedicated forum for focused study of the matter which covered various issues including unemployment and training needs of workers.

78. The Chairman appealed to Members to discuss the proposal in an amicable manner.

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79. Dr Margaret NG said that LegCo was very concerned about SMEs, and this explained why Members had to identify the best way to help tackle their problems expeditiously. In her view, the established practices and arrangements and past experience for handling issues of public concern provided good reference. She further said that it had been the established practice for the relevant Panel to follow up an issue falling within its purview. Should other issues be found to be relevant as well in the course of study, normally the Panel would convene a joint meeting with another Panel(s), or the issues would be dedicated to the Panel for follow up.

80. Dr NG added that the appointment of the Lehman Brothers Subcommittee was necessary because the FA Panel had not yet commenced work in the Fourth LegCo when the issue arose. The House Committee then became the most appropriate forum to take up the issue expeditiously. Notwithstanding the appointment of the Subcommittee, other matters relating to the financial systems would not necessarily be tasked to the Subcommittee. She considered that the issues under discussion were the identification of the best way to follow up the matter and whether the established practice should be followed.

81. Mr CHAN Kam-lam said that Members not in the commerce and industry sector might not understand entirely the dire situation of SMEs. The appointment of a subcommittee would provide a dedicated forum for focused study on ways to support SMEs. He stressed that helping SMEs would also help employees. Given the urgency of the matter, he considered it necessary for LegCo to take expeditious actions together with the Administration. He could not see the reasons for objecting to the appointment of the proposed subcommittee.

82. Dr PAN Pey-chyou said that Members coming from different sectors had diverse experience in making policy and managing crisis, and they should have mutual respect. Different expertise was required in finding ways to resolve the current problems brought about by the financial tsunami, especially those faced by SMEs which were the most acute. Indeed, the survival of SMEs had a direct bearing on a large number of employees. Without involving employees and other relevant sectors, the problems could not be resolved. He clarified that the proposed subcommittee was not intended to resolve each and every problem. The handling of a critical and unprecedented situation required the adoption of an unconventional approach. In his view, the suggested conventional approach of leaving the matter to be handled by one or two Panels was tantamount to cutting the feet to fit the shoes. Such an approach was far from proactive.

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83. Mr Andrew LEUNG said that the current financial crisis was unprecedented and occurred only once in a century. Not only local SMEs but also those in the Pearl River Delta had been affected. He pointed out that of the 60 000 odd factories in the Pearl River Delta, about 15 000 to 17 500 might collapse. More factories were anticipated to close down before the Lunar New Year. Resorting to the conventional approach could not address the situation in an expeditious way. He stressed that he and Mr Vincent FANG were good friends, and the proposed subcommittee would not bypass the CI Panel. It was at his request that the Panel had convened a special meeting to discuss the issue of SMEs. Given the scale of the problems, the Panel might not be able to tackle the problems alone. The appointment of the proposed subcommittee would allow non-Panel members to contribute in finding ways to support SMEs. Mr LEUNG added that with 270 000 SMEs employing 1.5 million workers, the possible closure of one-tenth would affect the livelihood of 150 000 employees. He appealed to Members to support his proposal, which was made in accordance with RoP, to identify expeditiously measures to assist SMEs.

84. Mr Vincent FANG said that so far, the CI Panel had not encountered any difficulties in inviting Government officials and the relevant trades to attend its meetings. Where necessary, the Panel was also ready to hold special meetings. He welcomed any non-Panel members to join the discussions on any issues considered by the Panel. In response to Mr Ronny TONG's enquiry as to when the Panel could convene a special meeting in the shortest time to discuss the matter, Mr FANG indicated that so far, the Panel had not received any requests to convene a special meeting, and an urgent special meeting could be held the day following the House Committee meeting if necessary.

85. The Chairman drew Members' attention to Rules 20(k) and 22(u) of the House Rules which provided that a proposal for the appointment of a subcommittee should contain sufficient information on the proposed terms of reference, timeframe, work plan and extent of work involved in the study of the specific issue. She said that as such, the appointment of a subcommittee would need time and was not the most expeditious way in handling the matter.

86. Ms Cyd HO said that she was not a member of the Panel but was equally concerned about SMEs and the lower-middle class. She considered that the most expeditious way to handle the matter was to leave it to the CI Panel. She suggested that the Chairman of the Panel should work out a schedule of frequent meetings with the proposed agendas for Members' consideration. This would facilitate the joining of discussions on the matter by Panel members and non-Panel members.

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87. Ms Audrey EU said that the Chairman of the CI Panel should convene the special meeting immediately, say the day following the House Committee meeting, to enable all interested Members to participate in the discussions.

88. The Chairman sought clarification on whether a formal request was raised to the CI Panel to convene a special meeting the day following the House Committee meeting.

89. Ms Emily LAU shared the view that the issue of SMEs was the core work of the CI Panel, and it was odd to take this aspect of work away from the Panel. She pointed out that other Panels had set up dedicated subcommittee(s) to consider issues of concern. However, as in the case of the Panel on Security which had appointed a Subcommittee on Police's Handling of Searches of Detainees, the relevant issues were concerned with only a small part of the Panels' work and not their core work. Members of the CI Panel had recently received notice of the meeting to be held 18 November 2008 to discuss follow-up work on support for SMEs. Should there be any concern that the meeting should be held earlier, such a concern should have been brought to the attention of the Chairman of the Panel. However, no such concern had been raised. She objected to the proposal for the appointment of a subcommittee under the House Committee, and considered that the matter should be handled by the Panel. She also objected to the holding of a special CI Panel meeting the day following the House Committee meeting as the calling of meetings should comply with the relevant rules. She added that should there be a request for advancing the meeting of the Panel to discuss SMEs, adequate notice should be given to members.

90. Dr Margaret NG said that whether Members would support the proposal would depend on how the Chairman of the CI Panel would handle requests for holding urgent special meetings to discuss the matter. As such, she considered it appropriate for the Chairman of the Panel to first state clearly how he would handle such requests.

91. Mr Jeffrey LAM said that Members should consider Mr Andrew LEUNG's proposal before any other proposals raised at the meeting. He requested the Chairman to deal with Mr Andrew LEUNG's proposal first.

92. The Chairman said that Members had raised various aspects in considering Mr Andrew LEUNG's proposal. These included procedural issues, practice and convention, and operational efficiency. In her view, how the Chairman of the CI Panel would handle Members' request for special meeting(s) would impact on their stance on Mr Andrew LEUNG's proposal. She therefore considered it appropriate for Mr Vincent FANG, as Chairman of the CI Panel, to first state how he would handle such a request.

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93. Mr Ronny TONG said that as a member of the Panel, he formally made a request for holding an urgent special meeting to discuss the subject of SMEs.

94. Mr Vincent FANG said that the Panel had scheduled a meeting for 18 November 2008 to discuss the subject. Should any Panel member make a request for advancing the meeting, he would readily accede to the request. Subject to the availability of venue, the meeting could be held within the next week.

95. Mrs Regina IP was of the view that the Chairman of the CI Panel was reactive in deciding whether the meeting should be advanced. She sought clarification on how he assessed the situation of SMEs, and whether he considered the situation warranted the conduct of an urgent meeting.

96. Mr Vincent FANG reiterated that the CI Panel had already scheduled a meeting on 18 November 2008 to receive a briefing by the Administration on the work done in respect of SMEs since its last meeting. Individual cases concerning SMEs were handled by individual members everyday separately.

97. Mr James TO asked whether any members had requested advancing the meeting of the Panel scheduled for 18 November 2008.

98. The Chairman reiterated Mr Vincent FANG's response and Mr Ronny TONG's request in paragraphs 84 and 93 above.

99. Mr Tommy CHEUNG said that there were rules and procedures in handling requests for the conduct of special meetings of a Panel, and such requests should not be dealt with rashly. Special Panel meetings were held because the urgency of a matter so dictated. No request had been made to the CI Panel before the House Committee meeting for a special meeting to be held to deal with the subject of SMEs. He considered it necessary to follow the established rules and procedures in handling issues of public concern. An issue of public concern should be handled by the relevant Panel. He considered it inappropriate to bypass the CI Panel and raise the issue with the House Committee in the first instance. In his view, the appointment of a subcommittee under the House Committee was not a panacea for the problems of SMEs.

100. Mrs Sophie LEUNG reiterated that the making of a proposal for the appointment of a subcommittee should not be taken as a criticism of the CI Panel. She regretted that some Members had taken such a tendentious view. She called upon Members to be tolerant and not to impute each other's motive. She stressed that the proposal for the appointment of a subcommittee under the House Committee had been made because the problems of SMEs straddled the purview of various Panels.

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101. The Chairman put to vote the proposal for the appointment of a subcommittee under the House Committee on support for SMEs. The outcome was: 15 Members supported and 18 Members objected to the proposal, and three Members abstained. The Chairman declared that the proposal was rejected.

102. Concluding the discussions, the Chairman said that Members had requested the CI Panel to hold a special meeting as soon as practicable to consider support for SMEs.

IX. Any other business

103. There being no other business, the meeting ended at 4:05 pm.

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Legislative Council Secretariat
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