

立法會
Legislative Council

LC Paper No. CB(2) 1001/08-09

Ref : CB2/H/5/08

House Committee of the Legislative Council

**Minutes of the 17th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 27 February 2009**

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 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 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 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)
Ms Connie FUNG	Senior Assistant Legal Adviser 1 (Acting)
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Miss Odelia LEUNG	Chief Council Secretary (2)6
Miss Winnie LO	Assistant Legal Adviser 7
Ms Amy YU	Senior Council Secretary (2)3
Mr Kelvin LI	Senior Public Information Officer 3
Mr Arthur KAN	Legislative Assistant (2)8

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I. Confirmation of the minutes of the 16th meeting held on 20 February 2009
(LC Paper No. CB(2) 947/08-09)

The minutes were confirmed.

II. Matters arising

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

Updated Legislative Programme 2008-2009

2. The Chairman said that during her meeting with CS last week, CS had indicated that he would endeavour to provide an updated Legislative Programme for 2008-2009 to Members in the following week. The Secretariat received the updated Programme in the evening of the day before the House Committee meeting, and had issued it to Members by multi-fax and through Lotus Notes mail in the morning of the House Committee meeting. It was also tabled at the meeting for Members' reference.

3. The Chairman further said that 27 bills were included in the Legislative Programme for 2008-2009 issued in October 2008. The updated Programme contained 20 bills of which four had been introduced into the Council and one was new, i.e. the Voting by Imprisoned Persons Bill. Eight bills in the October list had been taken out from the Programme. These included the Building Management (Amendment) Bill, Competition Bill, Buildings Energy Efficiency Bill, Employment (Amendment) Bill, Import and Export (Amendment) Bill, Food Safety Bill, Public Health and Municipal Services (Amendment) (No.2) Bill, and Residential Care Homes (Persons with Disabilities) Bill. She referred Members to the circular issued by the Secretariat for details of these bills. She added that under the updated Programme, 16 bills would be introduced into the Council in the remaining months of the current session.

III. Further business for the Council meeting on 4 March 2009

Questions

(LC Paper No. CB(3) 387/08-09)

4. The Chairman said that Mr WONG Yung-kan had replaced his oral question.

IV. Business for the Council meeting on 11 March 2009

(a) Questions

(LC Paper No. CB(3) 385/08-09)

5. 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

6. The Chairman said that no notice has been received yet.

(c) Government motion

Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under the Public Finance Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 376/08-09 dated 20 February 2009.)

(LC Paper No. LS 43/08-09)

7. The Chairman said that the proposed resolution was for seeking funds on account to enable the Government to carry on its services between the start of the financial year on 1 April 2009 and the enactment of the Appropriation Ordinance 2009. The aggregate total sum sought under all heads was fixed at \$61,075,637,000 this year. The sum sought last year was \$90,989,010,000.

8. The Chairman further said that during the last session, a subcommittee was formed to study last year's Vote on Account (VOA) resolution for the 2008-2009 financial year. Members agreed then that the Administration would not be requested to withdraw the notice for moving the proposed resolution.

9. Ms Emily LAU said that the Administration had agreed to take on board some suggestions made by the Subcommittee formed to study last year's VOA

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resolution. She considered it necessary to form a subcommittee to study the proposed resolution to examine whether the Administration had honoured its undertaking.

10. The Chairman proposed that a subcommittee be formed to study the proposed resolution in detail. Members agreed. The following Members agreed to join: Ms Emily LAU and Mr Ronny TONG.

11. The Chairman said that according to past practice, the Administration would normally be requested to withdraw its notice for moving a resolution should a subcommittee be formed. She invited Members' views on whether the Administration should be requested to do so for the proposed resolution.

12. Ms Emily LAU stressed that Members should be allowed sufficient time to examine the resolution. She sought information on the time available for the scrutiny.

13. The Chairman said that the proposed resolution was intended to take effect on 1 April 2009.

14. Ms Emily LAU suggested that the Subcommittee should hold its first meeting before deciding whether the Administration should be requested to withdraw its notice.

15. In response to Mr Ronny TONG, the Chairman said that in respect of last year's VOA resolution, Members had decided that the Administration should not be requested to withdraw its notice even though a subcommittee had been formed to study the resolution.

16. Mr Ronny TONG said that whether the Administration should be requested to withdraw its notice for moving the proposed resolution would depend on whether Members would have sufficient time to scrutinize the resolution. It would not be logical to form a subcommittee on the one hand but not allow it sufficient time for scrutiny on the other.

17. The Chairman said that should the Administration be requested to withdraw its notice for moving the proposed resolution at the Council meeting on 11 March 2009, the Administration would have to give a fresh notice for moving the resolution at another Council meeting before 1 April 2009. Members had to consider whether the Administration would have sufficient time to give the requisite notice for moving the proposed resolution after the Subcommittee had held its meeting.

18. Ms Emily LAU requested the Secretariat to provide information in this regard.

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19. At the invitation of the Chairman, Secretary General (SG) said that for the resolution to take effect on 1 April 2009, it would have to be moved at the Council meeting on 18 March 2009 at the latest. The deadline for giving notice of motions for that Council meeting was Tuesday, 3 March 2009.

20. Ms Emily LAU said that the Administration should be requested to withdraw its notice for moving the proposed resolution at the Council meeting on 11 March 2009 as this would allow more time for Members to scrutinize the proposed resolution. She hoped that the Secretariat could make arrangements for the Subcommittee to meet as soon as practicable.

21. At the invitation of the Chairman, SG said that should the Administration be requested to withdraw its notice for moving the proposed resolution at the Council meeting on 11 March 2009 and to give a fresh notice for moving the resolution at the following Council meeting, Members would have one more week to scrutinize the resolution. The Administration could give fresh notice on 3 March 2009, and the Subcommittee should be able to hold at least one meeting if it decided to report to the House Committee on 6 March 2009.

22. Mr James TO said that given Members' concern about the tight time frame for the scrutiny of VOA resolutions in recent years, the Subcommittee formed to study last year's VOA had discussed with the Administration the timetable for moving VOA resolutions with a view to allowing sufficient time for scrutiny by Members. The former Subcommittee had also put forth suggestions in respect of the amount of funds on account to be sought. It appeared that the Administration had allowed more time for the scrutiny of this year's VOA resolution. In his view, while the Subcommittee would still have to work under a tight time frame in scrutinizing the arrangement for seeking funds on account and the amount of funding sought, it should be able to complete the scrutiny.

23. Members agreed that the Administration should be requested to withdraw the notice for moving the proposed resolution at the Council meeting on 11 March 2009.

24. The Chairman said that the Administration could give fresh notice for moving the proposed resolution at the Council meeting on 18 March 2009 before the deadline for notice on 3 March 2009.

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(d) **Members' motions**

(i) **Motion on "Promoting medical check-up for the whole community"**

(Wording of the motion issued vide LC Paper No. CB(3) 389/08-09 dated 26 February 2009.)

(ii) **Motion on "Reviewing the Interception of Communications and Surveillance Ordinance"**

(Wording of the motion issued vide LC Paper No. CB(3) 390/08-09 dated 26 February 2009.)

25. The Chairman said that the above motions would be moved by Mr CHAN Kin-por and Ms Cyd HO respectively and the wording of their motions had been issued to Members.

26. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 4 March 2009.

V. Report of Bills Committees and subcommittees

Report of the Subcommittee on Independent Police Complaints Council Ordinance (Commencement) Notice

(LC Paper No. CB(2) 948/08-09)

27. The Chairman said that Mr LAU Kong-wah, Chairman of the Subcommittee, had given a verbal report at the last House Committee meeting. A written report was provided for the meeting.

28. The Chairman further said that the Administration had repealed the Commencement Notice and would publish a new commencement notice in the gazette to defer the commencement of the Independent Police Complaints Council Ordinance to 1 June 2009.

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

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 949/08-09)

30. The Chairman said that there were four Bills Committees, six subcommittees under the House Committee (i.e. three subcommittees on subsidiary legislation and three subcommittees on policy issues) and seven subcommittees under Panels in action.

VII. Proposal from Hon Albert HO to move a motion for adjournment under Rule 16(4) at the Council meeting on 4 March 2009 for the purpose of debating the following issue: The situation faced by Hong Kong people (including Legislative Council Members, District Council members, members of political parties, people from non-government organizations and journalists) for being persistently refused entry by the Macao Government

(Letter dated 24 February 2009 from Hon Albert HO Chun-yan to the Chairman of the House Committee (LC Paper No. CB(2) 968/08-09(01))

31. Mr Albert HO said that at the Council meeting on 18 February 2009, an oral question was raised concerning the refusal of some Hong Kong residents of entry to Macao. He considered the situation both urgent and important, as more and more Hong Kong people including journalists had been refused entry to Macao recently. As a matter of fact, he had submitted a written request to the President for holding an adjournment debate on the issue at the Council meeting held on that day. After meeting with the President, he agreed with the President's view that it might not be very fruitful to hold an adjournment debate at that Council meeting, given that the Administration had already given its views on the matter in response to the oral question raised at the meeting. As such, he proposed to hold the adjournment debate at the Council meeting on 4 March 2009 instead in order to give the Administration some time to take constructive actions in response to concerns expressed by Members. He stressed that the matter affected not only Legislative Council (LegCo) Members and that never before had Hong Kong residents been refused entry to Macao in such an oppressive and unreasonable manner. He appealed to Members to support his proposal.

32. The Chairman said that Mr HO sought the House Committee's support for:

- (a) the adjournment debate to be held in addition to two other debates on Members' motions with no legislative effect at the Council meeting on 4 March 2009; and
- (b) the President to be requested to consider exercising his discretion to extend the duration of the adjournment debate beyond one and a half hours, in order to enable all Members wishing to speak at the adjournment debate to do so.

33. The Chairman further said that according to Rule 16(6) and (7) of the Rules of Procedure and rule 18(b) of the House Rules, the duration of an adjournment debate moved under Rule 16(4) was kept within one and a half

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hours (75 minutes for speeches by Members and 15 minutes for replies by government officials) unless extended by the President. Each Member might speak for up to five minutes in the debate.

34. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) had considered Mr HO's proposal carefully. They noted that the matter had been raised by the relevant Panel. Members had also exchanged views with the Administration on the matter at the Council meeting on 18 February 2009 in the context of the oral question. It was further noted that a Member had earlier on made a request for changing the subject of the motion for debate to be moved by him at the Council meeting on 4 March 2009, albeit the subsequent withdrawal of the request. Having regard to the above considerations, Members belonging to DAB were of the view that it would be more appropriate for the matter to be discussed by way of a motion debate to be moved by an individual Member than holding an adjournment debate in addition to two other debates on Members' motions which would prolong the duration of the Council meeting. Members belonging to DAB did not consider it necessary to hold an adjournment debate on the matter on 4 March 2009 and therefore did not support Mr HO's proposal.

35. Mr Albert HO said that it was not uncommon for three debates initiated by Members to be held at a Council meeting. He referred to two recent examples where adjournment debates were held on the predicament faced by the small and medium enterprises due to tightened credit facility from banks and the Israeli Government's attack on the Gaza Strip. Should the argument put forward by Mr IP Kwok-him stand, then the subject of the predicament faced by the small and medium enterprises should be discussed by the Panel on Commerce and Industry and the holding of the adjournment debate should not have been necessary. In his view, urgent matters of general public concern should be discussed in the Council. He considered the matter urgent as cases of Hong Kong residents being refused entry by the Macao Government was occurring daily. He even suspected the existence of a black list in this regard. He reiterated that he had originally intended to request the holding of the adjournment debate at the Council meeting on 18 February 2009, but had decided to postpone it to the Council meeting on 4 March 2009 to allow more time for the Administration to take actions to address the problem. It would take some time before the matter could be discussed in the Council if it were to be done by way of an individual Member's motion. He added that while Members were entitled to their own views, Members should accommodate the requests of other Members and facilitate the expression of views in the Council rather than impede other Members from expressing their views.

36. Mr Frederick FUNG said that he was one of the Hong Kong residents who had been refused entry to Macao. He did not have the opportunity to

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express his views when the oral question was raised and could only ask a supplementary question to which the Secretary for Security had not provided a satisfactory response. He supported the proposal for holding an adjournment debate as it would give him an opportunity to speak on the matter. Given that many LegCo Members had been refused entry to Macao during the past two months, he failed to see why the adjournment debate should not be held.

37. Mr WONG Sing-chi said that he had also been denied entry to Macao. He did not have the opportunity to ask questions or express his views when the oral question was raised on the matter. An adjournment debate would provide an opportunity for Members to fully discuss the matter which, in his view, affected not only pan-democratic Members. As he and Mr Frederick FUNG were elected representatives of Hong Kong people, the denial of their entry to Macao was a matter that concerned all Hong Kong people. It would be an affront to Hong Kong people if Members belonging to DAB considered that the matter did not concern the general public and therefore needed not be discussed. He added that the matter also touched on the relationship between Hong Kong and Macao. He supported the holding of an adjournment debate to provide a forum for all Members to express their views on such an important subject.

38. Mr LEE Wing-tat said that as stated in his oral question on the matter at the said Council meeting, he had reason to believe that all LegCo Members belonging to the pan-democratic camp could not gain entry to Macao. They constituted more than one-third of LegCo Members and represented 58% of the total number of electors. He pointed out that not only prominent members but also unnamed members of political parties and organizations had been refused entry to Macao, while a journalist of the South China Morning Post had been refused entry twice. The matter had gone beyond freedom of movement, and press freedom was also affected. In his view, it did not matter if Members held different views on the matter but at least Members should have the opportunity to speak on it in the Council.

39. Mr Ronny TONG expressed surprise at the objection by some Members to the moving of the proposed adjournment for debate given that many LegCo Members had been refused entry to Macao and the matter was of such importance to Hong Kong. He requested that the proposal be put to vote.

40. Mr LEUNG Kwok-hung said that he had been condemned in no time by some Members for his behaviour at the previous Council meeting. In his view, the Macao Government should all the more be condemned as it had suppressed human right for a long time. He considered it deplorable for the matter to have to be debated by way of a belated adjournment debate. Mr LEUNG added that those who objected to the moving of the adjournment motion had total disregard for human right.

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41. Mr IP Kwok-him stressed that DAB had no intention of preventing Members from debating on the matter. The question was the timing and the manner with which it should be done.

42. The Chairman put to vote the proposal for moving a motion for adjournment at the Council meeting on 4 March 2009 for debate on the matter. Ms Emily LAU requested to claim a division.

The following Members voted in favour of the proposal -

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Miss Tanya CHAN, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr WONG Yuk-man, Mr Paul TSE and Dr Samson TAM

(29 Members)

The following Members voted against the proposal -

Mr CHAN Kam-lam, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Mr Timothy FOK, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou

(15 Members)

The following Members abstained -

Mrs Sophie LEUNG, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHIM Pui-chung and Mrs Regina IP

(7 Members)

43. The Chairman declared that 29 Members voted for and 15 Members voted against the proposal, and seven Members abstained. The proposal was supported.

44. Members also supported the proposal for requesting the President to consider exercising his discretion to extend the duration of the adjournment debate beyond one and a half hours, in order to enable all Members wishing to speak at the adjournment debate to do so.

VIII. Any other business

Fire Drill

45. The Chairman reminded Members that a fire drill would be held immediately after the meeting. Members should evacuate from the Chamber on hearing the evacuation announcement which would be broadcast shortly after the fire alarm went off and proceed to the Chater Garden.

46. There being no other business, the meeting ended at 3:00 pm.