

立法會

Legislative Council

LC Paper No. CB(2) 2051/08-09

Ref : CB2/H/5/08

House Committee of the Legislative Council

Minutes of the 29th meeting held in the Legislative Council Chamber at 2:30 pm on Friday, 26 June 2009

Members present :

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 LAU Kong-wah, 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 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 Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-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 KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Hon Tanya CHAN
Dr Hon Priscilla LEUNG Mei-fun
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon WONG Yuk-man
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP

Members absent :

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Clerk in attendance :

Mrs Vivian KAM Clerk to the House Committee

Staff in attendance :

Ms Pauline NG Secretary General
Mr Jimmy MA, JP Legal Adviser
Mrs Constance LI Assistant Secretary General 1

Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General (Special Duty)
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr KAU Kin-wah	Acting Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Kelvin LI	Acting Chief Public Information Officer
Ms Rosalind MA	Chief Council Secretary (1)5
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Winnie LO	Assistant Legal Adviser 7
Ms Clara TAM	Assistant Legal Adviser 9
Ms Amy YU	Senior Council Secretary (2)3
Mr Arthur KAN	Legislative Assistant (2)8

Action

I. Confirmation of the minutes of the 28th meeting held on 19 June 2009
(LC Paper No. CB(2) 1985/08-09)

The minutes were confirmed.

II. Matters arising

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

Visit by a Legislative Council (LegCo) delegation to Sichuan in connection with reconstruction support for the earthquake

2. The Deputy Chairman said that he had conveyed to CS Members' request for CS to continue to follow up on the proposed visit by LegCo Members to Sichuan in connection with reconstruction support for the earthquake. CS had reiterated that the Administration would actively follow up the matter.

Public consultation on review of Hong Kong's air quality objectives

3. The Deputy Chairman also said that he had reflected to CS Members' dissatisfaction with the attitude of Government officials in some recent cases, including the responses given by the Undersecretary for the Environment and the Financial Secretary at the respective committee meetings, and the sloppy preparatory work on the legislative proposals for launching the Government Bond Programme.

Action

4. Ms Audrey EU enquired about CS's response. She said that CS owed Members an explanation as to why the Undersecretary for the Environment had refused to provide information on the timeframe for launching the public consultation on review of Hong Kong's air quality objectives, notwithstanding that members had approached her for as many as six times. As of date, such information was not available. She did not consider such a way of handling Members' enquiry conducive to a harmonious relationship between the Executive and the Legislature. She stressed that it was necessary for the Subcommittee to know whether the consultation would be launched during the summer recess, and to schedule its meetings accordingly as the consultation exercise would run for three months only.

5. The Deputy Chairman said that the matter had been raised with CS last week, and CS had been provided with a copy of the draft verbatim transcript of the relevant proceedings of the Subcommittee. He would follow up the matter with CS at their next meeting.

6. Ms Audrey EU said that she had expected the Administration to act expeditiously, and the Administration should have prepared a response as the matter had also been reported in the media.

7. Dr Margaret NG said that she believed that the Administration had listened to the proceedings of the House Committee meetings and would not need to rely on the provision of the verbatim transcript in order to understand the matter. CS should not need to give his response after sight of the verbatim transcript.

The Chief Executive (CE)'s Question and Answer Session on 7 July 2009

8. The Deputy Chairman further said that he had informed CS that Members would like CE to address the issue relating to the attitude of Government officials attending committee meetings at the CE's Question and Answer Session to be held on 7 July 2009. CS had responded that he would convey Members' views to CS. The Deputy Chairman added that he would further consult Members on the topics which they would wish CE to cover under agenda item IV.

Special meeting of the Panel on Economic Development (ED Panel) on 30 June 2009

9. Mr Ronny TONG pointed out that at the request of the Administration, the ED Panel had scheduled a special meeting on 30 June 2009 but there were no agenda and papers for the meeting. But on the other hand, it was widely reported in the media that the subject to be discussed at the meeting was the

Action

Disneyland expansion programme. In his view, this was disrespect for the Legislature. He considered that the Administration should at least inform members of the subject area and the expected time for issuing the discussion paper. He requested the Deputy Chairman to relay his view to CS and to ask the Administration to make improvement.

10. Mr James TO said that he had never come across a situation where members were notified of the holding of a committee meeting but without knowing what would be on the agenda. It was necessary for members to know the discussion item for a meeting in order to decide whether they would attend the meeting and to make preparation for the meeting, such as conducting the relevant background research. He considered it grossly inappropriate for a Panel to schedule a meeting without informing members of the subject matter to be discussed.

11. At the invitation of the Deputy Chairman, Secretary General (SG) said that in the past, it was not uncommon for the Administration to make an announcement on a Tuesday afternoon on important decisions made by the Executive Council (ExCo) in the morning. As Members considered that the Administration should inform LegCo immediately after important decisions had been made by ExCo, the best arrangement would be for the Administration to brief Members of such decisions on Tuesday afternoon. Hence, upon the request of the Administration, the Secretariat would reserve time slots on Tuesday afternoon for holding briefings for such a purpose. Given the confidential nature of the matters for the consideration of ExCo, the items to be discussed at these briefings could not be released beforehand. As some Members considered such an arrangement unsatisfactory, the Secretariat had requested the Administration to inform Members at least the subject area to be briefed. In most cases thereafter, the Administration was ready to disclose the subject areas, and no complaints in this regard had been received so far. As regards the special meeting of the ED Panel in question, the Secretariat had requested the Administration to adopt the same arrangement.

12. Mr Jeffrey LAM, Chairman of the ED Panel, said that he had communicated with the Administration. The Administration considered that the item to be discussed at the special meeting should not be disclosed for the time being, and requested that the subject matter be kept confidential. Having considered the Administration's view and given the urgency of the matter, he had directed that a special meeting be convened on the following Tuesday at 2:30pm.

13. Mr James TO said that although Panel chairmen had such a power, he was concerned whether the Clerk to the ED Panel had alerted the Chairman that giving notice of meeting but without the subject for discussion was not in line with the established practice. Should the Panel chairman remain of the

Action

view that notice of meeting should be given, he had to give reasons for his decision. In his view, members should at least be informed of the subject area to be discussed at a meeting in order to make preparation. This could also cater for the possibility of ExCo not endorsing or deferring a decision on the matter and hence the need for calling off the meeting. In his view, the established practice and convention should be adhered to in arranging LegCo business to tie in with the work of the Administration.

14. Ms Emily LAU said that both members and the Secretariat needed to make preparations for a committee meeting. Without knowing the topic to be discussed, the Secretariat could not prepare background briefs which members had found very useful. While recognizing that the content of discussion at ExCo meetings should be kept confidential, she considered that the subject areas for discussion should be disclosed. She stressed that there would not be meaningful discussions at a meeting without preparations. Since some bureaux had informed members of the subject areas for discussion at urgent special Panel meetings in the past, there was no reason for not doing the same on this occasion.

15. Mr Ronny TONG considered the briefing arrangements as elaborated by SG acceptable. He appealed to all committee chairmen to require the Administration to disclose the subject area should an urgent briefing be necessary to inform members of important decisions. He considered it disrespectful to LegCo on the part of the Administration for requesting the convening of an urgent meeting without informing members of the matter for discussion, but divulging it to the media. This would also undermine the credibility of LegCo.

16. Mr Paul TSE sought clarification on whether the Administration had disclosed to the Chairman of the ED Panel the subject matter to be discussed but had requested its non-disclosure, or whether the Administration had not disclosed the subject matter to be discussed at all.

17. Mr Jeffrey LAM reiterated his saying in paragraph 12 above. He said that he had communicated with the Administration and requested to provide the topic for discussion at the meeting. The Administration had informed him the matter to be discussed but considered that it should be kept confidential for the time being. He agreed with the need to hold an urgent special meeting and to keep confidential the matter to be discussed for the time being. He stressed that the arrangements for the special meeting were worked out after communication with the Administration.

18. Mr LEUNG Kwok-hung said that the way the Administration had handled the matter was an insult to LegCo. He showed sympathy for Mr Jeffrey LAM who knew the subject matter to be discussed but could not

Action

divulge it to members at the Administration's request. He criticized the Administration for passing its responsibility onto Mr LAM. He added that a person to be invited to attend a function or activity should know its purpose in order to make appropriate preparation.

19. Mr Albert HO said that under the relevant rules, a notice of meeting should be issued together with the agenda. The agenda for a meeting was very important as the content of discussion and the moving of any motions at the meeting had to be relevant to the item under discussion. He queried whether a notice of meeting without the agenda constituted proper notice.

20. Dr Margaret NG said that Mr Albert HO had raised a procedural issue. She was also concerned whether notice of meeting without the agenda constituted notice.

21. At the invitation of the Deputy Chairman, SG said that notice of meeting was normally issued together with the agenda. As explained in paragraph 11 above, the past practice was to inform members of the date and time for briefing by the Administration. As members had complained about such an arrangement and after discussions with the Administration, the practice had been revised such that members were notified of the briefing as early as practicable so that they could reserve their time and the agenda would be issued once it was available.

22. Mr Albert HO expressed doubt about the legality of notice of meeting without the agenda. He pointed out that it had been the established convention for the Administration to brief the relevant Panel on a financial proposal before submitting the proposal to the Finance Committee for consideration. Without the agenda for a meeting, the Administration could theoretically brief members on a number of proposals at the meeting, and it would then be taken that members had been consulted. He considered this improper and was concerned that the manner in which the special meeting of the ED Panel was arranged might set a precedent.

23. SG explained that the meeting arrangements for briefings by the Administration on important decisions made by ExCo had evolved over the years. Members had stressed the importance of being briefed as soon as practicable but on the other hand subject matters to be considered by ExCo had to be kept confidential. In the past, the Administration did not take the initiative to brief Members on important decisions made by ExCo, and Members complained. It then developed into a situation where the Administration requested meetings be held at very short notice without providing the subject matter beforehand. In recent years, it had further evolved that Members were informed of the subject matter when the meeting was called or as soon as practicable after notice was given. It was usual

Action

practice that the Panel would arrange a further meeting to discuss the subject matter if considered necessary.

24. Mr Albert HO said that while LegCo was ready to cooperate with the Administration, due process had to be followed. The power to approve financial proposals and to make legislation rested with LegCo, and Members should not be servile to accommodate the requests of the Administration. He remained concerned that the special meeting of the ED Panel would set a bad precedent.

25. Mrs Sophie LEUNG considered it confusing for Members to have raised procedural queries because the Administration had taken the initiative to brief them on important decisions and announcements at their very request. She recalled that Ms Emily LAU had repeatedly made such a request. In her view, Mr Jeffrey LAM had taken a further step to require the Administration to disclose the subject matter to be discussed before agreeing to the holding of the special meeting. She sought Members' view on how Panel chairmen should handle requests for urgent briefing by the Administration on important decisions.

26. Mr IP Kwok-him did not agree with the view that Members had been servile to the Administration by acceding to its request for holding an urgent meeting. He said that Members had all along requested the Administration to brief them on important decisions made by ExCo as soon as practicable. While agreeing that notice of meeting should normally be issued together with the agenda, the special meeting under discussion warranted special treatment. He acknowledged that there was room for review as the media had reported the subject matter to be discussed at the special meeting when members of the Panel had yet to be informed. He considered that Members should strike a balance on the need for being briefed in no time on important decisions of the Administration and the need for knowing the subject matter beforehand.

27. Ms Emily LAU said that she had repeatedly requested the Administration to brief LegCo in no time on important decisions. She noted that as the following Wednesday was public holiday and there was no Council meeting, the Administration had requested to brief the ED Panel at a special meeting on the following Tuesday afternoon. She considered it unsatisfactory for the Administration not to let members know the subject area for briefing to enable members and the Secretariat to make preparations. She found it infuriating that the Administration had requested the Chairman of the ED Panel not to disclose the subject matter on the one hand, but had divulged it to the media on the other.

28. Mr James TO was concerned about how Mr Jeffrey LAM felt as the Administration had requested him to keep the subject matter confidential but

Action

the media had widely reported the subject matter to be discussed. He suggested that Mr LAM should contact the Administration immediately to clarify the matter. He opined that where the subject matter for a briefing was highly sensitive, the relevant Panel chairman should exercise his judgment not to disclose the subject matter beforehand and shoulder the consequences for the non-disclosure. If the subject matter for the special meeting were really about the Disneyland expansion programme as reported by the media, then the arrangement for the meeting was highly improper. He considered that the dignity of LegCo had been hampered and the Administration had not accorded even the basic respect for LegCo.

29. Mr LEUNG Kwok-hung pointed out the mechanism under the Basic Law which provided for the power of the President of LegCo to call emergency sessions on the request of CE. In his view, CE should have requested the President to exercise such a power so that the Administration could brief Members on important decisions at a Council meeting. However, the Administration had chosen to brief members of the ES Panel, and this reflected its autocratic attitude.

30. Dr Margaret NG expressed strong reservations about SG's advice that the notice of meeting of a LegCo committee was still proper even without an agenda. She considered that a notice of meeting must be issued with an agenda which could be revised or updated. She explained that it was important to have an agenda. She pointed out that in the past, Panels only provided a forum for exchange of views. However, consultation with Panels had now become an integral part of procedures for the submission of financial and legislative proposals. From that perspective, the agenda for a Panel meeting was binding, and only motions relevant to the agenda items could be moved at the meeting. In her view, should there be any queries about the constitution of proper notice of meeting, in particular about whether it should be issued together with the agenda, Members should refer the matter to the Committee on Rules of Procedure (CRoP) for consideration.

31. SG said that the issuance of notice of briefing would facilitate members to reserve their time for attending the briefing. As explained above, Members had expressed dissatisfaction with just being given the notice of a briefing but not being informed of the subject area of the briefing. Consequent upon the matter having been taken up with the Administration a few years ago, the Administration had been cooperative and informed Members of the subject matter for briefing as soon as practicable. SG pointed out that Members had considered it unacceptable to attend a briefing at too short a notice, such as one being held on the same date of the notice. The current arrangements were therefore adopted under which members were notified of the date of the briefing in advance, followed by the agenda showing the subject matter for briefing.

Action

32. Dr Margaret NG said that should Members be dissatisfied with certain rules concerning meetings, the Secretariat should bring this to the attention of CRoP for consideration and not to the Administration. She pointed out that the issuance of notice of meeting served the purpose of informing the recipients the relevant details including the subject matters to be discussed. Provided that there was a quorum for the meeting, decisions could be made. She sought information on whether written notice had been issued for the special meeting of the ED Panel, and whether the notice had specified that the meeting was a briefing by the Administration.

33. Mr James TO proposed adjourning the House Committee meeting for a few minutes to enable the Chairman of the ED Panel to contact the Administration to resolve the matter. He considered that other matters such as the meaning of valid notice of meeting could be dealt with later.

34. Mr Jeffrey LAM reiterated that he had communicated with the Administration and the Secretariat before arranging for the special meeting. He had also requested the Administration to provide the subject matter for discussion at the meeting so that members could be informed, and the Administration considered it inappropriate to divulge the subject matter to members of the Panel for the time being. Having regard to members' long-standing request to be briefed on important Administration's decisions once they had been made, he therefore agreed to the holding of the special meeting. He considered that there was no question of LegCo being servile to the Administration.

35. Legal Adviser (LA) drew Members' attention to the relevant rules in the Rules of Procedure (RoP) and the House Rules (HR). He pointed out that under RoP 77(11), written notice of a Panel meeting should be given to members at least three days before the day of the meeting but shorter notice might be given where the chairman so directed. The rule was silent on the issue of agenda. HR provided guidelines for the conduct of meetings. HR 24(c) provided that notices of committee meetings should be in writing, and HR 24(e) specified that agenda and papers in connection with matters requiring consideration at a meeting should be issued by the clerk as early as practicable before the meeting.

36. Dr Margaret NG said that as a general principle, notice of meeting should state the matters to be discussed at the meeting. In her view, the agenda was a paper for the meeting. She enquired whether written notice of the special meeting had been issued.

37. SG replied in the affirmative. She said that the agenda had been attached to the notice of meeting, and the agenda was shown as "An item

Action

proposed by the Administration". The Secretariat considered such an agenda item uninformative, and had discussed with the Administration.

38. Dr Margaret NG reiterated that rules and procedures concerning LegCo meetings should be considered by CRoP which would take into account the Administration's views in making recommendations.

39. The Deputy Chairman said that the case in question had unveiled the issue of whether an agenda must be issued at the same time of notification of a committee meeting. He sought Members' view in this respect.

40. Mr Albert CHAN considered it absurd that the agenda for the special meeting contained no useful information. In his view, such an agenda should not be regarded as an agenda at all. He could not accept such an agenda for a meeting of a LegCo committee.

41. Mrs Sophie LEUNG said that the calling of the special meeting was in accordance with RoP 77(11) which stated that written notice of the place, date and time of every meeting should be given to members at least three days before the day of the meeting. The Rule had not specified that the notice had to be given with the agenda. She considered it unfair for some Members to put the blame on the Secretariat or to imply that some rules had not been complied with in arranging for the special meeting. In her view, should Members consider it necessary to amend the RoP, the matter should be considered by CRoP.

42. Mr Abraham SHEK said that Members should focus their discussions on whether the special meeting should be convened and not on the interpretation of RoP 77(11).

43. Mr Albert HO said that Members were concerned about the system in and the dignity of LegCo. In his view, what constituted notice of meeting and an agenda should be dealt with later. As regards the special meeting in question, he proposed that the meeting should be regarded as a briefing by the Administration and not as consultation with the ED Panel for the purpose of submitting financial proposals. The Panel should be properly consulted after the relevant papers were available.

44. Mr James TO reiterated his suggestion that the Chairman of the ED Panel should contact the Administration immediately concerning the subject matter to be discussed at the special meeting. Should the matter not be resolved, he would appeal to Members to adopt an appropriate approach to the special meeting.

Action

45. The Deputy Chairman said that he would leave it to the Chairman of the ED Panel to consider Mr James TO's proposal.

46. Mr LEUNG Kwok-hung shared the view of Dr Margaret NG. He said that he found it unacceptable to convene a meeting without an agenda. He added that he had participated in various kinds of organizations and had never heard about a meeting being convened without an agenda.

47. Mr Paul CHAN considered Mr Albert HO's proposal reasonable and balanced. He suggested that Mr HO's proposal be put to a vote.

48. The Deputy Chairman reiterated that the House Committee was not in a position to decide matters for Panels. ED Panel should decide for itself whether to accept Mr Albert HO's proposal.

49. Dr Raymond HO considered that Members' discussions had been useful. In his view, the incident showed that the relationship between the Executive Authority and the Legislature had not improved, and the Administration had not intended to make improvement. Referring to RoP 77(11), he considered that as the agenda was decided by the chairman of a committee, whether there should be an agenda for a meeting should be decided by the chairman, and this subject could be further examined by CRoP. He added that the special meeting should be convened.

50. Mr Alan LEONG said that the provisions specified in RoP 77(11) were not sufficient to constitute notice of meeting. Stating only the day, place and time of a meeting might be necessary but might not be sufficient. For there to be a valid notice of meeting, the items to be discussed at the meeting must be stated to enable preparation.

51. Mr Tommy CHEUNG said that normally, notice of meeting should be given together with the agenda. As Members had requested to be briefed on important decisions in no time, briefing by the Administration was adopted as the current arrangement. He considered that Members should strike a balance between the need for urgent briefing and for knowing the subject matter beforehand. He shared Mr Albert HO's view that the special meeting should be regarded as a briefing by the Administration and not as consultation with the ED Panel. He echoed some Members' concern about the subject matter to be discussed at the special meeting having been widely reported in the media but members of the Panel had yet to be informed of it. He would regret the Administration's approach should the subject matter reported in the media turn out to be true. He considered that this concern should be reflected to CS. He added that should Members consider that notice of briefing should be given together with the agenda in future, the matter should be referred to CRoP for consideration.

Action

52. Dr Margaret NG said that it would be fundamentally flawed if RoP provided that notice of meeting without agenda was sufficient. In her view, giving notice of meeting without the agenda did not accord with the general rules applicable to meetings. By necessary implication, RoP 77(11) required notice of meeting to be given with the agenda. On the basis of the agenda, other rules concerning the scope of discussion and moving of motions at the meeting could then apply. She could not believe that notice of meeting could be given without agenda under RoP 77(11). Should there be any uncertainty about the interpretation of RoP 77(11), this should be considered by CRoP. She reiterated that should Members find the existing rules and procedures inadequate to address certain situations, the Secretariat should draw this to the attention of CRoP instead of working on the Administration.

53. The Deputy Chairman proposed that issues concerning notice of meeting with or without agenda be referred to CRoP for consideration.

54. Dr Margaret NG suggested that research in this regard be conducted by the Secretariat, such as the company law governing meetings.

55. LA said that while it might be useful to refer to principles relating to the conduct of meetings in company law, it was the RoP which governed the operation of LegCo. HR 24(e) provided that the agenda for a meeting should be issued by the clerk to the committee as soon as practicable before the meeting as a guide for Members.

56. Mr Ronny TONG said that the main purpose of the discussions was to convey Members' dissatisfaction with the communications between the Executive Authority and the Legislature and the need to improve their relationship. He requested the Deputy Chairman to reflect Members' dissatisfaction and concern to CS.

57. Mr TAM Yiu-chung agreed that the matter be referred to CRoP for consideration.

58. Mrs Sophie LEUNG agreed that the matter should be referred to CRoP. She added that issues concerning the content of agenda should also be examined, as HR had already provided for the issuance of agenda before a committee meeting.

59. Ms Audrey EU said that the relevant press cuttings should also be given to CS for information.

60. Mr James TO said that CS should be told in no uncertain terms that Members were highly dissatisfied with the Administration's approach in

Action

respect of the special meeting. He stressed that it should be made clear that the problem did not rest with the RoP and HR.

61. Mr WONG Yuk-man appealed to Members to boycott the special meeting to show their strong dissatisfaction.

62. Dr Margaret NG said that she could not conceive that the general legal principles should be disregarded in the operation of RoP because they had not been provided expressly therein.

63. In concluding the discussions, the Deputy Chairman said that he would relay to CS Members' strong dissatisfaction with the Administration's approach in respect of the special meeting. This had reflected the unsatisfactory relationship between the Executive Authority and the Legislature. Members called for improvement in this regard. The Deputy Chairman further said that issues concerning notice of meeting and agenda be referred to CRoP for consideration. Members agreed.

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)

(i) **Legal Practitioners (Amendment) Bill 2009** (*LC Paper No. LS 94/08-09*)

64. At the invitation of the Deputy Chairman, LA said that the Bill sought to amend the Legal Practitioners Ordinance to implement the scheme proposed by the Working Party on Solicitors' Rights of Audience for granting rights of audience to solicitors before the High Court and the Court of Final Appeal in civil and criminal proceedings. Under the proposed scheme, solicitors who had satisfied the requirement on post-qualification experience and further eligibility requirements to be prescribed by the Higher Rights Assessment Board might apply to the Board for higher rights of audience. He added that the Panel on Administration of Justice and Legal Services had been consulted on the legislative proposals at its meeting on 16 December 2008.

65. Dr Margaret NG considered it necessary to form a Bills Committee to study the Bill.

66. The Deputy Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr Albert HO (as advised by Mr Fred LI), Dr Margaret NG, Ms Miriam LAU (as advised by Mr Tommy CHEUNG), Mr Abraham SHEK and Mr Ronny TONG.

Action

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

(ii) Immigration (Amendment) Bill 2009
(LC Paper No. LS 92/08-09)

68. At the invitation of the Deputy Chairman, LA said that the Bill sought to -

- (a) expand the scope of, and allow the issue of visa other than by endorsement on, valid travel documents, to implement immigration convenience measures for Macao residents visiting Hong Kong; and
- (b) prohibit illegal immigrants and persons subject to removal or deportation orders from taking employment or engaging in business.

69. LA added that the Panel on Security had been consulted on the legislative proposals at its meeting on 2 June 2009.

70. Dr Margaret NG considered it necessary to form a Bills Committee to study the Bill. She was particularly concerned with the proposal to specify a new offence against the taking of employment by illegal immigrants which would adversely affect those claimants who had lodged claims for protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On the other hand, media reports revealed that the bodyguards of Miss Bona Mugabe, daughter of the President of the Republic of Zimbabwe, had worked in Hong Kong without valid permits. This showed differential treatment on the part of the Administration.

71. The Deputy Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Dr Margaret NG, Mr James TO, Ms Miriam LAU (as advised by Mr Tommy CHEUNG), Ms Cyd HO and Miss Tanya CHAN.

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

(iii) Inland Revenue (Amendment) (No. 2) Bill 2009
(LC Paper No. LS 91/08-09)

73. At the invitation of the Deputy Chairman, LA said that the Bill sought to amend the Inland Revenue Ordinance to smoothen the operation of the Board

Action

of Review and to improve the administration of the Ordinance. He added that no difficulties relating to the legal and drafting aspects of the Bill had been identified.

74. In response to Mr Ronny TONG, LA clarified that it was not the Legal Service Division's recommendation for Members not to form a Bills Committee to study the Bill. He added that the drafting of the Bill was in order, but the proposals contained therein had wide implications.

75. In response to Mr Ronny TONG, the Deputy Chairman said that it was up to Members to decide whether a Bills Committee should be formed to study a Bill.

76. Mr Ronny TONG considered it necessary to form a Bills Committee to study the Bill.

77. The Deputy Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr James TO, Mr CHAN Kam-lam, Mr Tommy CHEUNG, Mr Ronny TONG and Ms Starry LEE.

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

(iv) Bunker Oil Pollution (Liability and Compensation) Bill
(*LC Paper No. LS 93/08-09*)

79. At the invitation of the Deputy Chairman, LA said that the Bill sought to establish a legal framework to extend the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 signed at London on 23 March 2001 by providing for -

- (a) compensation for damage arising from pollution caused by the discharge or escape of bunker oil from ships or for threat of such damage; and
- (b) the liability of shipowners for bunker oil pollution damage and compulsory insurance in respect of such liability.

80. LA further said that the ED Panel had been briefed on the legislative proposals at its meeting on 27 April 2009, and members expressed various concerns.

81. Ms Cyd HO considered it necessary to form a Bills Committee to study the Bill.

Action

82. The Deputy Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Ms Miriam LAU (as advised by Mr Tommy CHEUNG), Ms Audrey EU, Ms Cyd HO and Miss Tanya CHAN.

83. The Deputy 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 19 June 2009 and tabled in Council on 24 June 2009
(LC Paper No. LS 90/08-09)

84. At the invitation of the Deputy Chairman, LA said that five items of subsidiary legislation made under the Electoral Affairs Commission Ordinance were gazetted on 19 June 2009 and tabled in the Council on 24 June 2009. The Amendment Regulations would come into operation on a day to be appointed by the Chairman of the Electoral Affairs Commission by notice published in the Gazette.

85. LA further said Members had expressed various concerns on the practical arrangements to facilitate voting by the imprisoned persons. He added that according to the Administration, another set of amendment regulations relating to electoral registration arrangements were in preparation and were expected to be gazetted shortly.

86. Mr IP Kwok-him considered it necessary to form a subcommittee to study the five Amendment Regulations.

87. The Deputy Chairman proposed that a subcommittee be formed to study the five Amendment Regulations in detail. Members agreed. The following Members agreed to join: Dr Margaret NG, Ms Cyd HO and Mr IP Kwok him.

88. Members agreed that the subcommittee should also study the amendment regulations relating to electoral registration arrangements to be gazetted shortly.

IV. The Chief Executive's Question and Answer Session on 7 July 2009

89. The Deputy Chairman invited Members' views on issues which they would like CE to cover at the Question and Answer session, in addition to the issues of relationship between the Executive Authority and the Legislature, and the attitude of Government officials attending committee meetings.

Action

90. Mr James TO said that he would like CE to respond to the aspirations of the people participating in the march on 1 July 2009.

91. The Deputy Chairman said that the above topics would be conveyed to CS.

V. Business for the Council meeting on 8 July 2009

(a) Questions

(LC Paper No. CB(3) 729/08-09)

92. The Deputy 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

(i) Arbitration Bill

(ii) Public Officers Pay Adjustment Bill

(iii) Employment (Amendment) Bill 2009

(iv) Minimum Wage Bill

(v) Inland Revenue (Amendment) (No. 3) Bill 2009

93. The Deputy Chairman said that the Administration had given notices to present the above five Bills to the Council on 8 July 2009. The House Committee would consider these Bills at its meeting on 10 July 2009.

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

Mandatory Provident Fund Schemes (Amendment) Bill 2009

94. The Deputy Chairman said that the relevant Bills Committee on the above Bill had presented its report to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

Action

(d) **Government motions**

(i) **Proposed resolution to be moved by the Financial Secretary under the Public Finance Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 739/08-09 dated 24 June 2009.)

(ii) **Proposed resolution to be moved by the Financial Secretary under the Loans Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 740/08-09 dated 24 June 2009.)

95. The Deputy Chairman said that the Chairman of the relevant Subcommittee had made a verbal report at the last House Committee meeting. A written report would be provided under agenda item VI(b).

(iii) **Proposed resolution to be moved by the Secretary for the Environment under the Ozone Layer Protection Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 711/08-09 dated 19 June 2009.)

(LC Paper No. LS 95/08-09)

96. At the invitation of the Deputy Chairman, LA said that the proposed resolution sought to make the Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) (Amendment) Regulation 2009 to meet the new requirements of the Montreal Protocol on Substances that Deplete the Ozone Layer. The Panel on Environmental Affairs had discussed the legislative proposals at its meeting on 24 November 2008.

97. Ms Audrey EU considered it necessary to form a subcommittee to study the proposed resolution.

98. The Deputy Chairman proposed that a subcommittee be formed to study the proposed resolution in detail. Members agreed. The following Members agreed to join: Ms Audrey EU, Mr Vincent FANG, Mr WONG Ting-kwong and Miss Tanya CHAN.

99. The Deputy Chairman said that the Administration would be requested to withdraw its notice for moving the proposed resolution.

(iv) **Proposed resolution to be moved by the Secretary for Commerce and Economic Development under the Interpretation and General Clauses Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 716/08-09 dated 19 June 2009.)

(LC Paper No. LS 96/08-09)

Action

100. At the invitation of the Deputy Chairman, LA said that the Administration had given notice to move a similar motion at the Council meeting of 24 June 2009. At the last House Committee meeting, Members were informed that in the light of the legal issue raised by the Legal Service Division, the Administration had agreed to remove the relevant paragraphs from the original proposed resolution relating to the transfer of certain powers and functions to the Head of Create Hong Kong (CreateHK) as the Entertainment Special Effects Ordinance did not provide for such powers and functions. At the request of the House Committee, the Legal Service Division had also written to the Administration asking whether the original proposed resolution would affect public interest. The Administration had advised that as the resolution would only provide for the simple substitution of the Commissioner for Television and Entertainment Licensing by the Head of CreateHK, it would not affect any public interest.

101. Dr Margaret NG said that she had already sorted out her earlier queries about the proposed resolution.

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

(e) Members' motions

(i) **Motion on "Facing up to the aspirations of the people participating in the march on 1 July"**

(Wording of the motion issued vide LC Paper No. CB(3) 742/08-09 dated 24 June 2009.)

(ii) **Motion on "Assisting local enterprises in brand building and product development"**

(Wording of the motion issued vide LC Paper No. CB(3) 744/08-09 dated 24 June 2009.)

103. The Deputy Chairman said that the above motions would be moved by Mr James TO and Dr LAM Tai-fai respectively and the wording of the motions had been issued to Members.

104. The Deputy Chairman reminded Members that that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 30 June 2009, in view of the intervening public holiday on 1 July 2009.

VI. Report of Bills Committees and subcommittees

(a) Report of the Subcommittee on Food Business (Amendment) Regulation 2009

(LC Paper No. CB(2) 1986/08-09)

105. Mr Tommy CHEUNG, Chairman of the Subcommittee, reported that the Subcommittee had completed its work, and referred Members to the Subcommittee's report for details of its deliberations.

106. Mr CHEUNG elaborated that the Amendment Regulation sought to prohibit the extraction of seawater from specified prohibited areas for keeping live fish and live shell fish intended for sale for human consumption. As members considered the existing regulatory regime comprehensive and in order to preserve the Lei Yue Mun seafood bazaar as one of the major tourist attractions in Hong Kong, most members supported postponing the implementation of the Amendment Regulation for one year to 1 August 2010, so as to allow more time for Lei Yue Mun seafood traders to construct a seawater extraction facility to obtain seawater immediately outside the proposed prohibition area in Lei Yue Mun. The Subcommittee agreed that the Chairman should, on behalf of the Subcommittee, give notice to move an amendment at the Council meeting on 8 July 2009 to change the commencement date of the Amendment Regulation to 1 August 2010 should the Administration decline to do so.

107. The Deputy Chairman reminded Members that the deadline for giving notice of amendments, if any, was Tuesday, 30 June 2009.

(b) Report of the Subcommittee on Proposed Resolutions under Section 29 of the Public Finance Ordinance (Cap. 2) and Section 3 of the Loans Ordinance (Cap. 61)

(LC Paper No. CB(1) 2049/08-09)

108. The Deputy Chairman said that Mr Jeffrey LAM, Chairman of the Subcommittee, had given a verbal report at the last House Committee meeting. A written report was provided for the House Committee meeting.

109. Mr James TO expressed regret that no meeting had been held to discuss the Administration's paper setting out its explanation on the reasons for not acceding to some members' request to spell out expressly the policy objective of the Government Bond Programme in the proposed resolutions. The Administration had advised against such an approach as it might give rise to litigation, thereby affecting the smooth implementation of the Government Bond Programme.

Action

110. Mr Jeffrey LAM said that pursuant to members' decision at the previous meeting and upon the receipt of the Administration's paper, members had been consulted on the need for holding another meeting to discuss the paper. The result was that four members considered it necessary to hold a further meeting, while 12 members considered otherwise. Having regard to some members' views on the need for holding another meeting, he had arranged a meeting. However, as only two members had responded that they would be available for the meeting, the meeting was not held as there would not be a quorum. He stressed that he had tried to arrange a further meeting but it could not be held owing to a lack of a quorum.

111. Mr James TO clarified that he had expressed regret that no further meeting was held to discuss the Administration's paper, and not that the Chairman had not arranged for a further meeting. In his view, the paper was important as it provided the legal basis for the Administration's refusal to set out the policy objective in the proposed resolutions. He considered it regrettable that a meeting could not be arranged to enable members to discuss the paper.

112. Mr Ronny TONG said that he was a member of the Subcommittee. While he did not consider it necessary to hold a further meeting, he was aware that some members would like to hold a meeting to discuss their views on the paper. He shared the view that such a request should be accommodated as far as practicable. He was not available for the proposed meeting as it had clashed with his other prior commitments. He suggested identifying another time slot for holding the meeting.

113. The Deputy Chairman said that it was for the Subcommittee Chairman to consider Mr Ronny TONG's suggestion.

(c) **Report of the Subcommittee on Race Discrimination (Formal Investigations) Rules, Race Discrimination (Investigation and Conciliation) Rules and Code of Practice on Employment under the Race Discrimination Ordinance**

114. Mr Paul TSE, Chairman of the Subcommittee, reported that the Subcommittee had held seven meetings. After receiving views from deputations on the Code of Practice on Employment (the Code) under the Race Discrimination Ordinance (RDO), the Subcommittee had held a series of meetings with the Administration and the Equal Opportunities Commission (EOC) to scrutinize the Code.

115. Mr TSE elaborated that the Subcommittee had worked on perfecting the provisions of the Code, with a view to providing for the reference of employers and employees a set of practical guidance for promoting racial

Action

equality in the workplace upon the implementation of RDO. After having considered the views of members and deputations, EOC had agreed to make fairly substantial revisions to the Code.

116. Mr TSE further reported that members had expressed concern that employers of foreign domestic helpers and their household members, particularly the elderly, might inadvertently commit acts of racial discrimination. Members had stressed that given the large number of households with foreign domestic helpers, the Administration should step up the relevant promotion and public education work. Members had suggested that leaflets on relevant guidelines should be prepared and distributed through the Immigration Department and employment agencies concerned to persons applying for employment of foreign domestic helpers to facilitate their understanding of ways to prevent infringing the rights of the domestic helper of a different race. The Administration had agreed that at the moving of the motion to amend the Code by the Secretary for Constitutional and Mainland Affairs at the Council meeting on 8 July 2009, the Administration would give an undertaking to do its utmost with EOC in taking specific measures to help employers of foreign domestic helpers understand their responsibilities under RDO. He added that the Subcommittee supported the Code and the two sets of Rules.

117. The Deputy Chairman reminded Members that the deadline for giving notice of amendments, if any, was Tuesday, 30 June 2009.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1987/08-09)

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

VIII. Proposed overseas duty visit to the Republic of Korea and Taiwan by the Subcommittee on Poverty Alleviation

(LC Paper No. CB(2) 1972/08-09)

119. Mr Frederick FUNG, Chairman of the Subcommittee, said that the Subcommittee sought the House Committee's permission to conduct an overseas duty visit to the Republic of Korea and Taiwan in July 2009 to study the experience of poverty alleviation and the development of social enterprises in these places.

Action

120. Mr FUNG referred Members to the paper for details of the purpose, itinerary and funding arrangements of the visit, and said that seven Members (including two non-Subcommittee Members) had indicated interest in joining the visit. A report would be submitted to the House Committee after the visit. He appealed to Members to support the proposed visit.

121. The Deputy Chairman proposed that permission be given for the Subcommittee to undertake the duty visit under rules 22(v) and 26(f) of the House Rules. Members agreed.

IX. Proposed adjournment debate under Rule 16(4) of the Rules of Procedure at the Council meeting on 8 July 2009 regarding the review of the tree management policy and the report on the review

(Letter dated 23 June 2009 from Hon Tanya CHAN to the Chairman of the House Committee (LC Paper No. CB(2)1997/08-09(01))

122. As Mr WONG Kwok-kin had also proposed to move an adjournment debate under RoP 16(4) at the Council meeting on 8 July 2009 under agenda item X below, the Deputy Chairman suggested that the two agenda items be discussed jointly. Members agreed.

X. Proposed adjournment debate under Rule 16(4) of the Rules of Procedure at the Council meeting on 8 July 2009 regarding the persistent rent increases by The Link Management Limited and the substantial layoffs upon the change of service contracts for its carparks

(Letter dated 23 June 2009 from Hon WONG Kwok-kin to the Chairman of the House Committee (LC Paper No. CB(2)1997/08-09(02))

123. At the invitation of the Deputy Chairman, Miss Tanya CHAN said that under RoP 16(4), a motion for adjournment of the Council could be moved for the purpose of debating a matter concerning public interest. Referring to the recent spate of incidents of tree collapsing, causing injuries to members of the public and property losses, she stressed the urgency of tackling the issue of tree management, particularly with the typhoon season approaching. She noted from media reports the concern expressed by frontline staff of the Leisure and Cultural Services Department about problems arising from a grade restructuring exercise, citing poor tree management as one of the consequences. As the Task Force on Tree Management led by CS was expected to complete its review and submit a report by the end of June 2009, she considered it necessary to hold an adjournment debate before the summer recess to provide an opportunity for all Members to express their views on the issue of tree management.

Action

124. At the invitation of the Deputy Chairman, Mr WONG Kwok-kin said that it was widely reported in the media that the change in work shift arrangements for security guards at carparks owned by The Link Management Limited (The Link) upon the change of service contracts for the carparks would lead to hundreds of job losses and a drop in the hourly pay of the security guards. He was also concerned about The Link's incessant rent increase for tenants of its shopping malls and carparks, which had added to the financial burden of tenants of public rental housing estates and the shopping malls concerned. He therefore proposed the moving of an adjournment debate under RoP 16(4) to enable Members to speak on the issue with a view to pressing the Administration to take actions.

125. Mr WONG Kwok-hing, Chairman of the Panel on Housing, said that the Panel had recently invited The Link to attend its meeting to discuss relevant issues, but regrettably, The Link had refused to attend. He was infuriated and supported the proposal of holding an adjournment debate on issues relating to The Link to provide a forum for Members to express their views.

126. Dr Ir Raymond HO said that while he did not object to the holding of adjournment debates, he noted that more adjournment debates had been held in the current session than in the past. In his view, as the issue of tree management had been discussed at a number of committee meetings and was not of urgent public importance as provided under RoP 16(2), it was more appropriate to discuss the matter by way of a Members' motion instead of an adjournment debate.

127. The Deputy Chairman clarified that both Miss Tanya CHAN and Mr WONG Kwok-kin proposed to move a motion for adjournment under RoP 16(4), and not RoP 16(2). He informed Members that never before had two adjournment debates been held at the same LegCo meeting. However, there was on one past occasion where two subjects had been raised in one adjournment debate at the Council meeting of 31 July 1991. He also drew Members' attention to the advice of the LegCo Secretariat (the Secretariat) that two motions for adjournment could not be moved at the same Council meeting under RoP.

128. Dr Margaret NG sought clarification on the basis of the view that two motions for adjournment could not be moved at the same Council meeting.

129. At the invitation of the Deputy Chairman, SG said that in the light of the two Members' proposals for the holding of an adjournment debate on two different issues at the same Council meeting, the Secretariat had conducted research on whether there were any precedents in LegCo and on the relevant experience of the United Kingdom (UK) House of Commons, where

Action

adjournment debates were held frequently. There was one precedent case in 1991 where two subjects of different nature were raised by two Members respectively for discussion on a motion for adjournment of the Council moved by the then Chief Secretary, with the permission of the President. The adjournment debate consisted of two parts for the discussion of the two subjects. After both parts of the adjournment debate had been completed, the question on the adjournment of the Council proposed by the then Chief Secretary was put to a vote. The procedure adopted was precedent for having one adjournment debate dealing with more than one subject.

130. SG further said that unlike the UK House of Commons, where it was clearly stipulated in the relevant rules that a motion for adjournment could not be moved more than once at the same meeting, there were no such express provision in RoP governing the moving of motions for adjournment debates. Having drawn reference from the practice in UK and in the light of RoP 16 and 32, it was considered that where a Member had moved a motion for adjournment of the Council, the same motion could not be moved by another Member at the same Council meeting.

131. Dr Margaret NG said that RoP 32 did not apply to procedural motions such as a motion for adjournment, as otherwise no more than one adjournment debate could be held during a Council session. In her view, the moving of two motions for adjournment at the same Council meeting was logically viable. Should the first motion for adjournment of the Council for debate on a certain subject be negatived, the second motion for adjournment for debate on another subject could then be moved. She sought clarification on how RoP 16 prohibited the holding of two adjournment debates at the same Council meeting.

132. At the invitation of the Deputy Chairman, LA said that the rationale behind RoP 16 was that only one motion for adjournment would be moved at a Council meeting. This was evidenced by RoP 16(7) which provided that if at the expiration of a specified period of time, the motion had not been agreed to, the President should adjourn the Council. It appeared that the rule was designed with one adjournment motion in mind, because should a second adjournment motion be allowed, this could possibly not be moved if the debate on the first adjournment motion overran in which case the President would have to adjourn the Council. At the Council meeting on 31 July 1991, one motion for adjournment was moved for the discussion of two subjects, namely the enhancement of the socio-economic status of women and the importation of labour. The arrangement for that adjournment debate was similar to that currently adopted for the motion debate on the Policy Address. In practice, there were two debate sessions, each dedicated to the discussion of one subject. After Members had spoken in each session, the designated public officer(s) provided a response.

Action

133. Dr Margaret NG considered it inappropriate to adopt the approach used at the Council meeting on 31 July 1991, as Miss Tanya CHAN and Mr WONG Kwok-kin had not requested the holding of a joint adjournment debate on two subjects, but had proposed respectively to move a motion for adjournment under RoP 16(4). Given that LA had advised that it was implied under RoP 16 that no more than one adjournment debates could be held at a Council meeting, she sought clarification on how the requests of Miss CHAN and Mr WONG should be dealt with under RoP.

134. At the invitation of the Deputy Chairman, SG said that should the House Committee agree that the subjects raised by Miss Tanya CHAN and Mr WONG Kwok-kin should be discussed at an adjournment debate, one motion for adjournment could be moved for the discussion of the two subjects. Miss Tanya CHAN could be the first Member to speak on the first subject, and after all Members wishing to speak on the first subject had done so (with five minutes for each speaker), there would be 15 minutes for replies by government officials. The process would be repeated for the second subject. Should Members agree to such an arrangement, the President's approval would have to be sought for a Member to speak twice during the same adjournment debate, as in the case of the motion debate on the Policy Address.

135. As it was the first time the House Committee dealt with two proposals for holding an adjournment debate at the same Council meeting, the Deputy Chairman suggested that Members should focus their discussion on the procedural issues involved.

136. In respect of the approach suggested by the Secretariat, Ms Audrey EU sought clarification on whether a motion for adjournment would be moved by each proposer. She opined that it would be odd if each proposer would move a motion for adjournment, but the question was put to vote only once. On the other hand, if two adjournment debates were held, Members could vote against the first motion for adjournment, and then proceed to the second adjournment debate, at the end of which Members would vote on the motion to adjourn the Council. In her view, the latter arrangement was less confusing as two motions for adjournment would be moved and the two motions would be voted on separately. She believed that Members would not vote on the first motion for adjournment in such a way as to disallow the moving of the second motion.

137. At the invitation of the Deputy Chairman, SG said that in the case of the adjournment debate held on 31 July 1991, the motion was moved by the then Chief Secretary. In the present case, consideration could be given to having the motion for adjournment moved by the Chairman of the House Committee. After the motion had been moved, two debate sessions would

Action

be held on the two subjects. SG reiterated that the Secretariat had proposed such an arrangement having regard to the past practice in UK, where a motion for an adjournment debate on as many as three subjects could be moved by a Government whip.

138. Mr Tommy CHEUNG sought clarification as to whether it was for the House Committee or the President to decide on the matter. He urged Members to resolve the matter expeditiously. In his view, should Members agree that both subjects warranted discussion at an adjournment debate, consideration could be given to adopting the approach suggested by the Secretariat, with the motion for adjournment to be moved by the Chairman of the House Committee. The relevant procedural issues, such as whether a cap should be set on the number of adjournment debates at a Council meeting, could be referred to CRoP for consideration.

139. The Deputy Chairman said that the House Committee had to decide whether it would recommend to the President the holding of more than two debates initiated by Members at the Council meeting on 8 July 2009.

140. Dr PAN Pey-chyou said that should Members agree that the subjects raised by the two Members warranted discussion by way of an adjournment debate, the procedural issues should not be a problem. As the two Members had proposed respectively to move a motion for adjournment at the Council meeting, he considered that in principle, it would be a better arrangement for two adjournment debates to be held on the subjects raised, instead of bundling the two debates into one. Referring to RoP32, he further said that the rule was not applicable to the issue under consideration as it referred to a further motion on the same question being moved during the same session, and not at the same Council meeting. Moreover, it was highly likely that the first adjournment debate would not be put to vote under RoP 16(7) because it would run over one and a half hours.

141. Mr LEE Cheuk-yan expressed support for discussing both subjects at the Council meeting. He proposed that the approach suggested by the Secretariat be adopted for the debate on the two subjects, and that the President be requested to exercise his discretion to extend the duration of the adjournment debate beyond one and a half hours and to allow each Member to speak for more than once, in order to enable all Members wishing to speak on either or both of the subjects to do so. He also shared the view that the issues raised at the House Committee meeting should be referred to CRoP for consideration.

142. Mr KAM Nai-wai said that both proposals were made under RoP 16(4), which provided that a motion for adjournment could be moved for the purpose of debating an issue concerning public interest. He was concerned that

Action

unlike RoP 16(2), RoP 16(4) had not provided for the criteria for the holding of an adjournment debate, given that all matters discussed in LegCo concerned public interest. He considered it necessary for CRoP to consider the issues of the maximum number of adjournment debates that could be held at one Council meeting as well as the factors that should be taken into account by the House Committee in considering proposals for the holding of such debates.

143. The Deputy Chairman said that according to the House Rules, not more than two debates initiated by Members should be held at each regular Council meeting, unless approval had been given by the President on the recommendation of the House Committee.

144. Mr IP Kwok-him said that it had all along been the established practice for two motion debates initiated by Members to be held at each Council meeting, and an adjournment debate would be held only to discuss an issue of common concern among Members which warranted special attention. While adjournment debates were seldom held in the past, he noted with concern the trend in the growing number of adjournment debates held in the current session. As the relevant Panel had been following up the issue of tree management, he considered that the need for holding an adjournment debate on the issue should be discussed. In his view, Members should first decide whether both subjects raised should be discussed by way of an adjournment debate, or whether only one subject should be debated, with the other one being followed up through other channels. Should Members decide that both subjects should be debated, the approach suggested by the Secretariat, which was in line with the existing provisions of RoP, was worth consideration. He added that detailed discussions on the procedural issues should be left to CRoP.

145. The Deputy Chairman shared the view that detailed discussions on the relevant issues concerning adjournment debates should be left to CRoP. Nevertheless, should Members consider that both subjects raised should be debated at the Council meeting, the House Committee had to discuss whether this was allowed under RoP. He further said that the Administration had informed him in the morning of the House Committee meeting that CS and the Secretary for Development would brief the Panel on Development on the review report of the Task Force on Tree Management, which was expected to be completed by the end of June 2009. The Administration was liaising with the Secretariat on the date of the briefing.

146. Mr Ronny TONG said that although the question of urgency was not a factor for consideration expressly provided for under RoP 16(4), it should be taken into account in deciding whether an adjournment debate should be held. He was concerned about possible abuse in the use of RoP 16(4) for jumping

Action

the queue for moving Members' motions with no legislative effect if the House Committee was too loose in recommending adjournment debates under the rule, which required only that the subject matter proposed for debate should concern public interest, and in effect any matter discussed in LegCo was concerned with public interest. He considered it necessary to critically examine RoP 16(4).

147. The Deputy Chairman said that the relevant issues raised by Mr Ronny TONG could be referred to CROp for consideration.

148. Ms Emily LAU said that it had all along been her view that there should not be too many motion debates initiated by Members at a Council meeting, as things were precious only when they were rare. She observed that the media and the public did not pay much attention to the debates on Members' motions. She considered it adequate to have two motion debates initiated by Members at each Council meeting. Nevertheless, she respected other Members' wish to discuss certain subjects at Council meetings. She considered that the House Committee should have a stance on the matter before referring it to CROp for consideration, so that CROp could take into account the House Committee's views in making recommendations. She sought clarification on whether the House Committee had reached a consensus on the matter.

149. The Deputy Chairman said that Members had yet to reach a consensus on the matter. He invited Members' views on how the two proposals for adjournment debates at the same Council meeting should be handled as this had never happened before. The principles and mechanism for handling similar requests in future could be discussed by CROp in detail later.

150. Mr CHAN Kam-lam shared Mr Ronny TONG's view on the need for the House Committee to assess stringently proposals for the holding of adjournment debates to prevent possible abuse. He was concerned that it would become an established practice that, apart from the debates on the two Members' motions, a number of adjournment debates would also be held at each Council meeting. In his view, proposals for the holding of adjournment debates should be considered having regard to the subject raised and the availability of other forums for discussion. He opined that, as a meeting would soon be arranged for CS and the Secretary for Development to brief the relevant Panel on the review report on tree management, Miss Tanya CHAN might no longer find it necessary to hold an adjournment debate on the subject. He recognized that there might be situations in future where more than one urgent matter warranted discussion by way of an adjournment debate at a Council meeting, and agreed with the need to establish a mechanism for dealing with such situations.

Action

151. Miss Tanya CHAN said that the urgency of a matter was not an issue under RoP 16(4), which specified that a motion for adjournment could be made for the purpose of debating a matter concerning public interest. She then quoted the recent spate of incidents of trees collapsing in various districts which had occurred in May 2009, and which did or did not cause injuries to members of the public and property losses. She stressed that there was no doubt that the issue of tree management concerned public interest. Although the Panel on Development would be briefed on the report on review of tree management, she considered it necessary to hold an adjournment debate for Members to express their views on the subject, as briefing was different from an adjournment debate.

152. Mr TAM Yiu-chung said that no Member had disputed the importance of the two subjects proposed for adjournment debate at the Council meeting on 8 July 2009. However, since it was the first time two proposals for holding an adjournment debate at the same Council meeting were raised, he considered it necessary to consider the matter prudently, notwithstanding the Secretariat's suggested approach. As pointed out by some Members, various problems might arise if more than one adjournment debate was allowed at a Council meeting. He also shared Mr Ronny TONG's concern about possible abuse of moving adjournment debates. As a meeting was being arranged for the Administration to brief the relevant Panel on the report on review of tree management, he queried the need for holding an adjournment debate on the subject. He added that if further discussion was considered necessary after the Administration's briefing, special meetings of the relevant Panel could be arranged.

153. Mr Abraham SHEK considered it not necessary to hold an adjournment debate on the subject of tree management, given that the relevant issues could be discussed when the Administration briefed the Panel on Development on the review report.

154. Dr Ir Raymond HO expressed concurrence with the views of Ms Emily LAU and Mr Ronny TONG. He considered that while the two subjects raised were important, their urgency should also be considered. He said that there were a number of issues of no lesser importance and urgency which he would wish to raise. He pointed out that Members already had to attend many committee meetings and should use their time effectively.

155. Mr Tommy CHEUNG said that Members belonging to the Liberal Party agreed that the moving of adjournment debates should not be abused and the relevant issues should be referred to CRoP for consideration. In his view, the threshold for considering requests for the holding of adjournment debates should be raised, and it would not be beneficial to the operation of LegCo if too many adjournment debates were held. That said, given that 8

Action

July 2009 was the last Council meeting in the current session, he did not object to discussing both subjects under one adjournment debate at the Council meeting.

156. Dr PAN Pey-chyou agreed with Mr Ronny TONG's view that while the urgency of a matter was not expressly provided for under RoP 16(4), it should be taken into consideration in considering the need for the holding of an adjournment debate. He considered that the two proposals for holding an adjournment debate should be considered on the basis of the same principles.

157. Dr Margaret NG considered that as the holding of two adjournment debates at the same Council meeting was not expressly disallowed under RoP, it would be inappropriate to decide by voting to negative one of the proposals for holding an adjournment debate, particularly considering that 8 July 2009 was the last Council meeting of the current session. Regarding the issue of the time limit of an adjournment debate as stated in RoP 16(7), the Secretariat had advised that it could be resolved by requesting the President to exercise his discretion to extend the duration of the adjournment debate beyond one and a half hours, to allow sufficient time for the debate on the two subjects. As for the question of who should move the motion for adjournment, consideration could be given to have it moved by one of the two Members concerned, or jointly by the two Members. In any event, it was a mere technicality which could be resolved. She further said that in her view, there was consensus among Members on the need for CRoP to work out a mechanism to prevent the abuse of moving adjournment debates. She gathered from the discussion that there was agreement among Members that it should be expressly provided in the relevant rules that no more than one adjournment debate should be held at a Council meeting and that a mechanism should be devised for handling requests for holding more than one such debates at a Council meeting.

158. Ms Cyd HO said that one of the important roles of LegCo was to debate on issues involving public interest, and Members should be facilitated to raise issues for discussion. She considered that the two requests for holding adjournment debates at the Council meeting on 8 July 2009 should be accommodated as far as practicable. She shared the view that issues concerning adjournment debates should be referred to CRoP which should work out expeditiously a mechanism for handling requests for such debates.

159. Ms Audrey EU agreed with the view of Dr Margaret NG and Ms Cyd HO that both subjects raised should be discussed, in particular considering that 8 July 2009 was the last Council meeting in the current session. She further pointed out that the issue of tree management straddled the policy portfolio of a number of Panels, including the Panels on Environmental Affairs, Development, Home Affairs and Housing. Hence, earlier on when

Action

the Panel on Environmental Affairs invited CS to attend a meeting to discuss the work of the Task Force on Tree Management, CS had proposed to attend a special meeting of the House Committee instead. She therefore considered an adjournment debate in a Council meeting an appropriate forum for discussing the matter. She further said that after the release of the report on review of tree management in the following week, the Administration would probably brief one of the concerned Panels, while the other relevant Panels would be invited to attend the briefing. As many committee meetings had been scheduled in the coming two weeks before the summer recess, she reckoned that many interested Members might not be able to attend the briefing by CS on the review report. It would also be very difficult to schedule further special meetings to discuss the matter. The fact that the review was led by CS demonstrated the importance of the issue. In view of the above considerations, she considered it appropriate to hold an adjournment debate on the issue at the Council meeting on 8 July 2009 to provide an opportunity for Members to express views on the review report before the summer recess.

160. Miss Tanya CHAN echoed Ms Audrey EU's view that it was more appropriate to discuss the issue of tree management at an adjournment debate as it straddled the policy areas of various Panels.

161. The Deputy Chairman said that Members should first vote on the question of whether both subjects raised by the two Members should be discussed by way of an adjournment debate at the Council meeting on 8 July 2009.

162. Dr Margaret NG sought clarification on whether it was for the House Committee to make such a decision, given that the holding of two adjournment debates was not disallowed under RoP.

163. The Deputy Chairman said that according to the House Rules, no more than two debates initiated by Members should be held at each Council meeting. However, more than two such debates might be allowed by the President upon the recommendation of the House Committee. Hence, it was for the House Committee to decide whether to recommend to the President that the proposed adjournment debate should be held in addition to the two other debates on Members' motions with no legislative effect.

164. Mr CHAN Kam-lam expressed disagreement with the view of Miss Tanya CHAN and Ms Audrey EU. He said that the issue of tree management should be followed up by the relevant Panel.

165. Ms Emily LAU said that even if Members agreed to support the holding of an adjournment debate on the two subjects, it should not be taken as a precedent.

Action

166. The Deputy Chairman put to vote the proposal that an adjournment debate be moved on the two subjects raised by Miss Tanya CHAN and Mr WONG Kwok-kin at the Council meeting on 8 July 2009. The result was: 13 Members voted in favour of the proposal, 11 Members voted against the proposal, and no Member abstained. The Deputy Chairman declared that the proposal was supported.

167. Members agreed that the technical arrangements for moving the adjournment debate would be followed up by the Secretariat. Members also agreed to refer the relevant issues concerning adjournment debates to CRoP for consideration.

XI. Any other business

168. There being no other business, the meeting ended at 5:04 pm.

Council Business Division 2
Legislative Council Secretariat
2 July 2009

090626e.doc