

立法會
Legislative Council

LC Paper No. CB(2) 555/09-10

Ref : CB2/H/5/09

House Committee of the Legislative Council

**Minutes of the 8th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 11 December 2009**

Members present :

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBM, GBS, JP
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon 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, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC

Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Anita SIT	Chief Council Secretary (1)4
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Amy YU	Senior Council Secretary (2)3
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

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I. Confirmation of the minutes of the 7th meeting held on 4 December 2009
(*LC Paper No. CB(2) 496/09-10*)

The minutes were confirmed.

II. Matters arising

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

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

III. Business arising from previous Council meetings

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

Buildings Energy Efficiency Bill

(*LC Paper No. LS 24/09-10*)

3. The Chairman said that the Bill sought to require compliance with codes of practice promulgated by the Electrical and Mechanical Services Department concerning the energy efficiency of air-conditioning installations, electrical installations, lift and escalator installations and lighting installations and energy audits in respect of certain types of buildings.

4. The Chairman further said that the Panel on Environmental Affairs had been consulted on the legislative proposals at its meeting on 15 July 2009. While supporting the legislative intent of the Bill, members had expressed various concerns.

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5. Miss Tanya CHAN considered it necessary to form a Bills Committee to study the Bill.

6. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Ms Audrey EU, Mr KAM Nai-wai, Mr CHAN Hak-kan and Miss Tanya CHAN.

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

(b) **Legal Service Division report on subsidiary legislation gazetted on 4 December 2009 and tabled in Council on 9 December 2009**
(*LC Paper No. LS 25/09-10*)

8. The Chairman said that three items of subsidiary legislation were gazetted on 4 December 2009 and tabled in the Council on 9 December 2009.

9. Members did not raise any queries on these items of subsidiary legislation.

10. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 6 January 2010.

(c) **Date and procedure for the election of Members for appointment to the Investigation Committee Established upon the Moving of a Censure Motion on Honourable KAM Nai-wai for Misbehaviour**

[Previous papers:

LC Paper No. CB(3) 122/09-10 issued vide LC Paper No. CB(2) 203/09-10 dated 4 November 2009; and

paragraphs 39 to 92 of the minutes of the 3rd meeting held on 6 November 2009 (LC Paper No. CB(2) 245/09-10 issued vide LC Paper No. CB(2) 266/09-10 dated 12 November 2009]

11. The Chairman said that at the House Committee meeting on 6 November 2009, Members had agreed to defer the decision on the procedure for the election of Members for appointment to the Investigation Committee proposed by the relevant Subcommittee as set out in Appendix II to LC Paper No. CB(3) 122/09-10.

12. At the invitation of the Chairman, Secretary General (SG) said that when the proposed election procedure was discussed at the House Committee meeting on 6 November 2009, Members had expressed the view that the proposed procedure should only apply to the Investigation Committee in respect of Mr KAM Nai-wai's case. She briefed Members on the proposed procedure and the relevant dates for the election of Members for appointment to the Investigation Committee as follows -

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- (a) the election should be held at a meeting of the House Committee on a date to be appointed by the House Committee. The election was proposed to be held at the House Committee meeting on 8 January 2010;
- (b) the Legislative Council (LegCo) Secretariat should issue a circular with a nomination form to invite nominations from Members at least seven clear days before the election date. Should Members agree to the proposed election date of 8 January 2010, a circular to invite nominations would be issued to Members not later than 29 December 2009;
- (c) each nomination form should be for the nomination of one Member and should be signed by one Member as the proposer, one Member as the seconder, and by the nominee Member to signify his consent to the nomination;
- (d) duly completed nomination forms should be delivered to the LegCo Secretariat at least three clear days before the election date, i.e. on 4 January 2010;
- (e) Rule 73A(1) of the Rules of Procedure (RoP) provided that an investigation committee should comprise a chairman, a deputy chairman and five members. Where the number of nominations received by the LegCo Secretariat by the deadline for nomination was less than this number of seven, further nominations could be proposed at the House Committee meeting at which the election would be conducted;
- (f) where the number of nominations received was equal to seven, the Chairman of the House Committee should declare the nominees duly elected;
- (g) where the number of nominations received was more than seven, a poll should be taken at the House Committee meeting by a show of hands, whereby a Member might vote for seven times and no more and the nominees with the highest numbers of votes would be declared elected;
- (h) where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes (i.e. "tied votes"), a separate poll should be taken in respect of that nominee and such other nominee(s);
- (i) if, after a separate poll was held under paragraph (h), there were still tied votes, lots should be drawn by the Chairman of the House Committee among such nominees to determine which of them would take up the remaining place(s);

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- (j) immediately after the election of Members for appointment to the Investigation Committee, the meeting of the House Committee should be suspended for 10 minutes to enable the elected Members to elect amongst them the two Members to be nominated for appointment respectively as Chairman and Deputy Chairman of the Investigation Committee by the President; and
- (k) the meeting of the House Committee would then resume and the House Committee would be asked to endorse the results of the election of the Chairman and Deputy Chairman of the Investigation Committee.

13. The Chairman invited Members' views on the proposed election procedure and election date.

14. Mr Paul TSE said that at the Council meeting on 9 December 2009, his motion moved under RoP 49B(2A) for no further action to be taken on the censure motion was voted down. He sought clarification on whether a motion for not taking further action on a censure motion under RoP 49B(2A) could be moved only once upon the moving of the censure motion, or if it could be moved again in order to terminate the work of an investigation committee at any stage of its investigation.

15. At the invitation of the Chairman, Legal Adviser (LA) said that RoP 49B(2A) provided for the procedure for dealing with a motion moved under RoP 49B(1A). According to the normal rules of statutory construction, procedural steps should proceed in the order as stipulated in the RoP unless expressly provided otherwise. He pointed out that there was no expressed procedure under RoP for the termination of the work of an investigation committee.

16. In response to Mr Paul TSE's further enquiry on whether the work of the investigation committee could be terminated for whatever reasons, LA confirmed that the mechanism under RoP 49B(2A) could not be invoked to terminate the work of an investigation committee once the committee had been established. Whether other mechanisms could be invoked to achieve the same purpose was another issue.

17. With reference to the terms of reference of an investigation committee under RoP 73A, Mr Paul TSE said that according to his understanding, as in the case of criminal proceedings, an investigation committee was responsible for establishing the facts stated in the censure motion and giving its views on whether or not the facts as established constituted grounds for the censure. The terms of reference of the investigation committee could not go beyond these. He sought confirmation on whether his understanding was correct.

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18. At the invitation of the Chairman, LA said that the terms of reference of an investigation committee were stated in RoP 73A(2). Like other LegCo committees, an investigation committee might, in the course of its operation, consider matters relevant to its terms of reference. How far the investigation committee's report would cover such matters would be decided by it after thorough discussions.

19. Mr Paul TSE said that his understanding of RoP 73A(2) was different from that of LA. He reiterated that according to his understanding, the terms of reference of the investigation committee should be confined to determining whether the allegations stated in the censure motion were established, as in the case of criminal trials. In his view, given the special nature of an investigation committee, it would neither be proper nor appropriate for an investigation committee to determine matters other than those stated in the censure motion. He requested LA to provide advice in this regard.

20. At the invitation of the Chairman, LA said that he considered it not appropriate to categorise the work of an investigation committee as criminal proceedings. He stressed that while the nature of work of an investigation committee could lead to serious consequences, the proceedings were not criminal in nature.

21. Mr Paul TSE said that he was well aware that the work of an investigation committee was not criminal proceedings. What he meant was that in view of the potentially serious consequences of its work, an investigation committee should conduct its work prudently and adopt the high standard of proof as in criminal proceedings.

22. The Chairman said that the Investigation Committee had to conduct its work in accordance with RoP. Subject to RoP, the Investigation Committee would determine its practice and procedure, and LA would render assistance in this regard. She appealed to Members who had concerns about the operation of the Investigation Committee to join it.

23. Dr Priscilla LEUNG hoped that Members could reach a consensus as far as practicable on the balanced representation of membership of the Investigation Committee. Whilst appreciating that Members belonging to certain political parties might wish to refrain from taking part in the investigation to avoid a conflict of interests, she appealed to Members from different political parties and groupings to join the Investigation Committee as far as possible.

24. The Chairman shared the view that Members from different political parties and groupings should join the Investigation Committee as far as possible.

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25. Mr Paul TSE requested the LegCo Secretariat to advise in writing whether the terms of reference of the Investigation Committee were confined to establishing the facts stated in the censure motion only. He further said that many members of the public were under the impression that the meetings of the Investigation Committee would be held in public. However, under RoP 73A(4) and (5)(a), all meetings of an investigation committee would be held in camera, unless the Member who was the subject of the censure motion elected to have the meetings held in public; and such election must be made before the first of such meetings. He enquired whether there was any mechanism to alert the Member concerned of such procedure, in particular the deadline for such election.

26. At the invitation of the Chairman, LA said that he believed that the Investigation Committee would notify the Member concerned of the relevant procedure.

27. The Chairman said that the Investigation Committee would determine its practice and procedure.

28. Members endorsed the proposed election procedure as set out in Appendix II to LC Paper No. CB(3) 122/09-10. Members also agreed that the election for appointment of Members to the Investigation Committee be held at the House Committee meeting on 8 January 2010.

IV. Further business for the Council meeting on 16 December 2009

(a) Tabling of papers

**Report No. 1/09-10 of the House Committee on Consideration of
Subsidiary Legislation and Other Instruments**

*(LC Paper No. CB(2) 501/09-10 issued vide LC Paper No. CB(3)
251/09-10 dated 9 December 2009)*

29. The Chairman said that Members had agreed on the arrangement for holding debates in Council on subsidiary legislation and other instruments tabled in Council to which no amendment had been proposed. If a Member had notified the House Committee that a debate should be held on any of the subsidiary legislation or instruments covered in a report to be presented by her in her capacity as the Chairman of the House Committee, she would move a motion to take note of the report in relation to the item(s) of subsidiary legislation or instrument(s) at the relevant Council meeting. Otherwise, no debate on the report would be held. The Chairman added that she would present the report covering eight items of subsidiary legislation the period for amendment of which would expire on 16 December 2009, and no Members had requested to speak on the subsidiary legislation.

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30. In response to Ms Emily LAU's enquiry on the deadline for Members to give notification of their intention to speak on the subsidiary legislation covered in the report at the Council meeting of 16 December 2009, the Chairman said that the deadline had expired at 5:00 pm on Tuesday, 8 December 2009. She added that Members had been notified of the deadline and no Members had requested to speak on any items of the subsidiary legislation by the deadline.

31. At the invitation of the Chairman, Assistant Secretary General 2 said that according to the agreed arrangement, the Clerk to the House Committee would inform Members, at the issuance of the tentative agenda for a House Committee meeting on Monday, of the items of subsidiary legislation and other instruments to be included in the House Committee report for tabling at the Council meeting to be held in the following week. Members who wished to speak on any items of subsidiary legislation or instruments covered in the report were requested to notify the Clerk by 5:00 pm on Tuesday.

32. Ms Emily LAU suggested that it would be helpful if, in addition to the afore-mentioned arrangement, Members could also be informed of the relevant items of subsidiary legislation and other instruments at the House Committee meeting preceding the issuance of the report to Members on Monday.

33. The Chairman proposed and Members agreed with Ms LAU's suggestion.

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

Toys and Children's Products Safety (Amendment) Bill 2009

34. The Chairman said that the Administration had given notice to present the above Bill to the Council on 16 December 2009. The House Committee would consider the Bill at its next meeting on 18 December 2009.

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

(i) Public Officers Pay Adjustment Bill

(ii) Domestic Violence (Amendment) Bill 2009

35. The Chairman said that at the last House Committee meeting on 4 December 2009, Members noted the reports of the relevant Bills Committees on the above two Bills.

36. The Chairman further said that apart from the above two Bills, the Second Reading debate of the Import and Export (Amendment) Bill 2009 would also be resumed at the Council meeting on 16 December 2009. As long debates were anticipated, in particular on the above two Bills, the business

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on the Agenda of the Council meeting would unlikely be finished on 16 December 2009, in which case the Council would resume the following morning for the continuation of the unfinished business.

V. Report of Bills Committees and subcommittees

Report of the Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2009

37. Mr Paul CHAN, Chairman of the Bills Committee, reported that the Bills Committee had held eight meetings and had received views from deputations in the business and professional sectors.

38. Mr CHAN elaborated that the Bills Committee supported in principle the Bill to empower the Inland Revenue Department (IRD) to collect domestic tax information requested by another contracting party to a comprehensive avoidance of double taxation agreement with a view to enabling Hong Kong to adopt the latest standard for exchange of information (EoI) under the Organization for Economic Cooperation and Development Model Tax Convention. Members and some deputations had expressed concerns about the provision of adequate safeguards to protect local taxpayers' right to privacy and confidentiality of information disclosed to the requesting party (EoI safeguards). In addition to studying the provisions of the Bill in this respect, the Bills Committee had also examined the draft Inland Revenue (Disclosure of Information) Rules (the Rules) and the Departmental Interpretation and Practice Note (DIPN) setting out the EoI safeguards proposed to be put in place by the Administration.

39. Mr CHAN further reported that in response to members' request, the Administration had agreed to set out the information and justifications required to be provided in an EoI request in the Rules, instead of DIPN, and had made reference to the relevant legislation in Singapore in drafting the relevant provisions of the Rules. At members' request, the Administration would move Committee Stage amendments (CSAs) to the effect that the Rules would be subject to the positive vetting procedure instead of the negative vetting procedure. The Administration had also taken on board members' suggestions to amend the Rules and DIPN to clarify the arrangements for IRD to handle and approve EoI requests and notify the taxpayers concerned.

40. Mr CHAN further said that the Bills Committee agreed to the CSAs to be moved by the Administration. Mr James TO might propose CSAs to the drafting of the proposed section 49(1A) to address his concern. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 6 January 2010. He added that the Bills Committee would provide a written report the following week.

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41. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Thursday, 24 December 2009.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 497/09-10)

42. The Chairman said that there were 10 Bills Committees, five subcommittees under the House Committee (i.e. two subcommittees on subsidiary legislation and three subcommittees on policy issues) and seven subcommittees under Panels in action.

VII. Report on the visit to Sichuan from 24 to 26 September 2009 by members of Panel on Development and Chairmen and Deputy Chairmen of other relevant committees of the Legislative Council of the Hong Kong Special Administrative Region in connection with post-quake restoration and reconstruction in Sichuan

(LC Paper No. CB(1) 496/09-10)

43. Members noted the report and did not raise any query. The Chairman added that the Administration would report to Members on a regular basis, through the Panel on Development, on the work of the Hong Kong Special Administrative Region in support of the reconstruction of Sichuan earthquake stricken areas.

VIII. Mechanism for handling visits conducted by Members outside Hong Kong in response to invitations

(LC Paper No. AS 72/09-10)

44. The Chairman said that the paper sought Members' views on the proposed mechanism for handling visits outside Hong Kong conducted by Members in response to invitations. She invited SG to explain the proposed mechanism and the detailed procedures.

45. SG explained that at the House Committee meeting on 9 October 2009, Members discussed the arrangements for the visit to the Sichuan Province from 24 to 26 September 2009 by members of the Panel on Development and the Chairmen and Deputy Chairmen of some committees in connection with post-quake restoration and reconstruction. Members considered the arrangements not entirely satisfactory as there was no opportunity for them to discuss the invitation, including whether the expenses of the visit should be charged to individual Members' overseas duty visit (ODV) accounts. Members requested the Secretariat to study the matter and propose a mechanism for handling Members' visits outside Hong Kong which were conducted in response to invitations.

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46. SG said that the three objectives of the proposed mechanism were as follows -

- (a) there should be transparency in the deliberation of the logistical arrangements;
- (b) where the visit was regarded as being related to LegCo business, support by the most relevant Panel(s) or committee(s) was required; and
- (c) where expenses of the visit were to be charged to Members' ODV accounts, endorsement by the House Committee was required and the matter should be referred to The Legislative Council Commission for reference.

SG then explained the detailed procedures as set out in paragraph 9 of the paper.

47. The Chairman invited Members' views on the proposed mechanism.

48. In response to Mr LEUNG Kwok-hung's enquiry on the meaning of "overseas" visits, SG clarified that the proposed mechanism, if endorsed, would apply to visits conducted outside Hong Kong in response to invitations and the expenditure of the visits could be charged to ODV accounts. Although the accounts were named "Overseas Duty Visits", it covered Members' visits conducted outside Hong Kong including visits to the Mainland.

49. Mr LEUNG Kwok-hung said that as far as he knew, only the Mainland adopted the unusual practice of extending an invitation to a visit to specific Members of the LegCo. Referring to the visit of the LegCo delegation to Sichuan quake-hit areas in July 2008, he pointed out that the People's Government of Sichuan Province rejected him for the visit for the reason that the people of Sichuan considered him not suitable for the visit having regard to his speeches. He felt aggrieved that the People's Government of Sichuan Province had not put forth any evidence to substantiate its claim and he had been defamed and humiliated without being given any opportunity to make clarification. The matter was also not followed up by LegCo. He was concerned whether the proposed mechanism could deal with such situations. In his view, if a LegCo Member was treated disrespectfully and rejected for an invited visit, LegCo had the responsibility to safeguard the reputation of the Member and to follow up the matter in order to maintain its dignity.

50. SG also recalled that Mr LEUNG Kwok-hung had only been informed of the rejection for the said visit at the last minute. SG said that under the proposed mechanism, there would be communication with the inviting authorities before, during and after the visit. Any views or dissatisfaction with the visit arrangements could be conveyed to the authorities concerned.

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51. Mr LEUNG Kwok-hung said that the leader of the said delegation was notified of his rejection for the visit at a very late stage, and the Provincial Government of Sichuan had not provided any explanation for the matter. He considered such a way of treating the LegCo delegation totally inconceivable, in breach of protocol and a blatant disrespect for LegCo. He reiterated the need for the proposed mechanism to address such matters.

52. SG noted Mr LEUNG Kwok-hung's concern. She said that should such matters recur, these would be followed up and an explanation would be sought.

53. Ms Emily LAU considered that Mr LEUNG Kwok-hung's concern was valid as he had been targeted twice for not being invited for the visits. She shared his concern that an invitation which was only extended to certain specific Members was disrespectful for LegCo. She considered that under such circumstances or where an individual Member was rejected for a visit, the Members invited to the visit should turn down the invitation. She sought clarification on how the proposed mechanism would deal with such matters. While considering the proposed mechanism largely acceptable, Ms LAU was also concerned about the proposed procedures for handling an invitation to a visit to be led by the President. Under the proposed procedures, the President should be consulted as to the acceptance of the invitation. If a quota was prescribed on the number of participating Members by the relevant organization, the President should consult Members on the composition of the delegation as well as the programme content and logistics of the visit. She considered it unsatisfactory for the various steps to be taken behind the scene as public money was involved. In her view, as in the handling of invitations to LegCo committees, such invitations should be discussed at open meetings, and the President should consult Members through the House Committee.

54. SG referred Members to paragraph 9(b) of the paper and pointed out that if the invitation was extended to all LegCo Members, the House Committee should convene a meeting to discuss whether to accept the invitation. If the invitation was extended to Members of the Council (except the President) but a quota was prescribed on the number of participating Members by the relevant organization, the House Committee should also consider the composition of the delegation. SG added that if the President was invited to lead a delegation of Members in a visit, his acceptance of the invitation was necessary in order to trigger off the procedures of the proposed mechanism.

55. The Chairman shared the concern of Ms Emily LAU as to how the President would consult Members. In her view, the situation described in paragraph 9(a) of the paper did not necessarily lead to that in paragraph 9(b). She enquired whether the House Committee would be consulted if an invitation was extended to the President and a few named Members only.

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56. SG said that it would not be necessary for the House Committee to discuss the invitation if the visit was not conducted in the name of LegCo or its committees. SG acknowledged that the proposed mechanism had not set out whether the House Committee should be consulted if the President was invited to lead a delegation of named LegCo Members in a visit and the visit was conducted in the name of LegCo.

57. Ms Emily LAU considered it necessary to discuss such invitations at open meetings as long as the visits were to be funded by public money. Members could seek clarification as to why an invitation was extended to certain named Members only.

58. SG highlighted the principles of the proposed mechanism which might address Members' concerns. She explained that if Members accepted an invitation to a visit in their individual capacity and the visit was not conducted in the name of LegCo or its committees, such visits would not be covered by the proposed mechanism and there was no need for consultation with Members. It was only when the invitation was extended to Members of LegCo or its committees would the proposed mechanism be triggered off. Irrespective of whether the invitation was extended to all Members of LegCo or any of its committees, the invitation would be discussed at an open meeting of the relevant committees. If the invitation was accepted by the relevant committees and if the expenditure of the visit was to be charged to individual Members' ODV accounts, the endorsement of the House Committee would be required. Where a committee accepted an invitation to a visit but could not obtain the endorsement of the House Committee for the financial arrangement, Members might join the visit on a self-financing basis or claim reimbursement of the expenses incurred in the visit under the Operating Expenses Reimbursement system.

59. Ms Emily LAU reiterated her concern about the lack of a mechanism for handling in an open manner an invitation to the President and a few named or unnamed Members to a visit which was conducted in the name of LegCo.

60. The Chairman proposed that the President should consult Members through the House Committee for such invitations which were conducted in the name of LegCo and paragraph 9(a) be amended accordingly. Members agreed.

61. Ms Emily LAU sought clarification on whether and how the proposed mechanism would deal with situations where individual Members were rejected for the invited visit.

62. SG said that any views made by Members about the invitation would be relayed to the relevant organizations. Since the House Committee or the committees being invited would discuss the invitation, members could decide whether to accept the invitation.

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63. Mr Paul TSE said that to put the requirement beyond doubt, paragraph 9(j) of the paper should be amended to state clearly that a report should be submitted to the House Committee after a visit was conducted by LegCo or its committees. This would avoid the misunderstanding that a report had to be made on a visit conducted by individual Members, such as his recent visit to a few European countries to attend the International Parliamentary Governance Seminar.

64. SG said that the requirement for the submission of a report on a visit did not apply to the visits quoted by Mr TSE. Nevertheless, subject to Members' view, the relevant paragraph could be amended.

65. Members agreed that paragraph 9(j) should be amended to address Mr Paul TSE's concern.

66. Mr LEUNG Kwok-hung said that the proposed mechanism had not stated categorically whether the Members invited to a visit would go ahead with the visit should any Members be rejected for the visit at any stage. It appeared that the decision would rest with the President or the Members being invited to the visit under such circumstances. He reiterated his concern on the need for putting in place a mechanism for LegCo to follow up such rejections in order to maintain its dignity. Referring to his rejection to the Sichuan visit in July 2008, he pointed out that he was relayed by the President of the reasons for the rejection as quoted by the authorities concerned. He considered it necessary to have a mechanism for LegCo to make a report on the rejection and to state its stance on the matter.

67. SG said that the Members or the committees being invited to the visit could discuss how such a matter should be handled. The Members or the committees could decide whether or not to go ahead with the visit or to take any actions in response to the rejection, such as by making a statement. SG reiterated that any views made by Members about the invitation would be relayed to the authorities concerned.

68. The Chairman said that as the proposed mechanism had set out the detailed procedures for handling invitation to visits under different scenarios, hopefully these could address the unpleasant situations experienced by Mr LEUNG Kwok-hung. The proposed mechanism could also be reviewed and improved in the light of the operational experience.

69. Mr TAM Yiu-chung expressed support for the proposed mechanism.

70. In concluding the discussions, the Chairman said that Members approved the proposed mechanism and the Secretariat would review whether any amendments to the House Rules were required.

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IX. Any other business

71. There being no other business, the meeting ended at 3:28 pm.

Council Business Division 2
Legislative Council Secretariat
16 December 2009