

立法會
Legislative Council

LC Paper No. CB(2) 1453/09-10

Ref : CB2/H/5/09

House Committee of the Legislative Council

**Minutes of the 21st meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 30 April 2010**

Members present :

Hon Miriam LAU Kin-yee, 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 Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
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 CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP
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
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 IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP

Members absent :

Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon IP Kwok-him, 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 Duties)
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
Miss Odelia LEUNG	Chief Council Secretary (2)6
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Winnie LO	Assistant Legal Adviser 7
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 20th meeting held on 23 April 2010
(LC Paper No. CB(2) 1392/09-10)

The minutes were confirmed.

II. Matters arising

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

(a) Re-scheduling of the Chief Executive's Question and Answer Session (CE Q&A Session) on 6 May 2010

2. The Chairman said that she had not attended the meeting with CS as she was out of town. She invited the Deputy Chairman to report to Members on his meeting with CS.

3. The Deputy Chairman said that he had conveyed to CS Members' dissatisfaction over the handling of the further re-scheduling of the CE Q&A Session to 6 May. CS had indicated that the Administration attached great importance to the dates for holding CE Q&A Sessions. The decision to re-schedule the CE Q&A Session from 22 to 23 April was made after mutual communication. Subsequently, some Members had enquired with the CE's Office on whether the Q&A Session could be further re-scheduled as the memorial service for the late Mr TSUI Tsin-tong would be held at the same time on 23 April. After consultation with the President, the CE Q&A Session had been further re-scheduled to 6 May. CS had also indicated that he would relay Members' views to CE.

4. Ms Audrey EU considered that the crux of the matter was the procedure for communication between the Executive Authority and the Legislature. She considered that the CE's Office should be well aware of the procedure. She found it odd for the CE's Office to have taken the view of certain Members as that of the Legislative Council ("LegCo"). She stressed that the CE's Office should have consulted the House Committee or its Chairman on the re-scheduling of the CE Q&A Session. In her view, CE should make an apology to LegCo on the matter.

5. The Deputy Chairman reiterated that CS had agreed to relay Members' dissatisfaction over the matter to CE. He said that should Members consider it necessary, the matter could be further followed up with CS at the Chairman's next meeting with him.

6. Ms Audrey EU said that it was not a question of certain Members expressing dissatisfaction with some other Members. The issue at stake was the proper mechanism for communication between the Executive Authority and the Legislature. She was concerned that the CE's Office had not followed such a mechanism.

7. The Chairman said that the most important thing was for the House Committee to be consulted on such matters in future. Whether CE should extend an apology to LegCo was another matter.

8. Ms Emily LAU sought clarification on whether the decision on the re-scheduling was made after the CE's Office had consulted the President. In her view, the President should have consulted the House Committee on the matter. She considered that the re-scheduling of the CE Q&A Session had not followed the proper procedure.

9. The Deputy Chairman reiterated that CS had indicated at their meeting that some Members had made enquiries with the CE's Office on the re-scheduling of the CE Q&A Session. The CE's Office had consulted the President on the matter, and the Q&A Session was subsequently further re-scheduled to 6 May.

10. At the invitation of the Chairman, Secretary General ("SG") said that the dates of Council meetings were determined by the President. It had all along been the practice for CE to propose the dates for holding CE Q&A Sessions, and his proposal would be forwarded to the President for determination. The scheduling of the Q&A Session in question had followed the same arrangement.

11. Ms Emily LAU said that the CE Q&A Session had been re-scheduled twice and it was a matter of respect that Members should be duly consulted in the process. In her view, the President should have at least consulted the Chairman of the House Committee. She considered it important to convey Members' views on the re-scheduling to the President.

12. Mr CHAN Kam-lam did not agree with the view that the matter had affected the relationship between the Executive Authority and the Legislature. He said that as a matter of fact, many Members had made enquiries with the CE's Office after they were informed of the re-scheduling of the CE Q&A Session to 23 April at 3:00 pm, as the memorial service for the late Mr TSUI Tsin-tong would be held at the same time that afternoon. These Members had also queried why the CE's Office had not been aware of the clash. The matter had been dealt with expeditiously, and Members were soon informed of the further re-scheduling of the Q&A Session to 6 May. He stressed that he did not see any problem with the handling of the re-scheduling. He pointed out that if certain Members were not available to attend the Q&A Session on 6 May, they could propose to further re-schedule it. It was his understanding that many Members had attended the memorial service. In his view, it would not be appropriate to hold the CE Q&A session on a date when many Members would not be able to attend. He considered that the President and CE had handled the matter appropriately, and the re-scheduling was made after taking into account Members' views.

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13. Mr Jeffrey LAM said that LegCo should review the relevant arrangements. He pointed out that it had been necessary in the first place to reschedule the Q&A Session from 22 to 23 April as it was not certain whether the Council meeting of 21 April could finish by 3:00 pm on 22 April. He sought clarification on whether procedurally the dates for holding the CE Q&A Sessions were decided by CE or LegCo. In his view, efforts should be made to avoid scheduling Q&A Sessions on Thursdays in future having regard to the possibility of Council meetings continuing on Thursdays.

14. The Chairman said that as pointed out by SG, the dates for holding CE Q&A Sessions were determined by CE and the President. In view of the long debates on the Appropriation Bill 2010 at the Council meeting of 21 April, the Q&A Session originally scheduled for 22 April had been re-scheduled to 23 April. She stressed that had she been consulted on the proposed further re-scheduling of the Q&A Session to 6 May in view of the clashing with the memorial service, she would have informed Members right away of the re-scheduling and Members would have understood the situation. She reiterated that as the Chairman of the House Committee, she should be consulted on any re-scheduling of Q&A Sessions in future so that she could inform Members at an early opportunity.

Recent remarks of the President

15. Ms Emily LAU noted with concern the recent remarks of the President that he would resign from the presidency should it be absolutely necessary for him to vote for the constitutional reform proposals. She said that the President should hold a meeting with Members to explain his remarks given that he was elected by Members as the President and Members had to be prepared for his possible resignation. She hoped that the Chairman could arrange for such a meeting.

16. The Chairman invited Members' views on Ms Emily LAU's proposal.

17. Mr TAM Yiu-chung said that the President from time to time made remarks on certain issues. He considered it inappropriate to request the President to explain to Members his remarks whenever certain Members felt dissatisfied with them. Mr TAM further said that the possible resignation was hypothetical. He did not consider it necessary to follow up the matter.

18. Mr WONG Kwok-kin did not consider it reasonable to request the President to explain his possible resignation to Members. He stressed that any proposals made by Members should be reasonable. If the President had to explain his remarks to Members, the five Members who had resigned should also have sought the agreement of other Members to their resignation.

19. Ms Audrey EU supported Ms Emily LAU's proposal. She said that the resignation of the President was a very important matter. The President was elected by Members and he had made some undertakings when running for the presidency. It was therefore necessary for the President to explain to

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Members should he decide to resign. The image of LegCo would be tarnished if the President who should be impartial in the discharge of his constitutional duties chose to vote. Whether the Member who would take over the presidency would vote would have to be considered by Members. She added that the resignation from the presidency was different from the resignation as a LegCo Member.

20. Mr LEE Wing-tat said that the issue at stake was not the resignation of individual Members. Like the Speakers in overseas parliaments, the President should be an exemplar of the culture of the Legislature. He should not make a decision lightly to resign in order to achieve a political mission. Each LegCo Member had a duty to build up and uphold the culture of the Legislature which should be honourable and credible. He considered it necessary for Members to have a meeting with the President.

21. Ms Cyd HO supported the proposal for arranging a meeting with the President. She pointed out that the President should have the responsibility to maintain the dignity and credibility of the Legislature. In running for the presidency, the President had undertaken to uphold this convention and would not exercise his right to vote. However, the recent remarks made by the President showed that he might breach this convention. The implications would be serious as the Presidents of the Legislature in future might vote. She considered it necessary for the President to explain his remarks to Members and the public.

22. Dr Margaret NG considered it important for the President and Members to make preparation for the possible resignation procedurally. For example, arising from the vacancy, whether an election for the President should be held or whether the President's deputy should be deemed to be the President. She requested the Secretariat to explain the procedure.

23. The Chairman said that the relevant information would be provided to Members by circulation.

24. Mr Paul TSE said that the recent remarks made by the President were hypothetical. He considered it grossly inappropriate to overplay the matter to the extent of its being an issue of contravention of the culture of the Legislature. Contrary to the views expressed by some Members, the President had indicated that he would be ready to resign should he exercise his right to vote; this was in honour of his undertaking. He considered that Members should not be lenient on themselves but critical of others.

25. The Chairman considered it inappropriate to further discuss the subject as it was not on the agenda of the meeting. She said that Members should make a proposal for discussion on the matter at the next House Committee meeting should they wish to.

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- (b) **Prisons (Amendment) (No. 2) Order 2010**
(Paragraphs 8 to 10 of the minutes of the 20th meeting held on 23 April 2010)
(Letter dated 23 April 2010 from the Assistant Legal Adviser to the Secretary for Security and the reply dated 28 April 2010 from the Secretary for Security (LC Paper Nos. CB(2) 1403/09-10(01) and (02))

[Previous paper:

Paragraphs 1 to 3 of LC Paper No. LS 56/09-10 issued vide LC Paper No. CB(2) 1356/09-10 dated 21 April 2010]

26. The Chairman said that in response to Members' request at the last House Committee meeting, the Administration had provided a reply to clarify the meaning of "setting apart" the Lo Wu Correctional Institution as a prison.

27. Members did not raise any further queries on the Order.

28. The Chairman said that it would not have been necessary for Members to seek clarification from the Administration had a LegCo Brief been provided on the Order. She proposed that the Administration be requested to provide in future a LegCo Brief on each and every piece of subsidiary legislation which was subject to the scrutiny of LegCo. Members agreed.

29. The Chairman reminded Members that the deadline for amending the Order was 19 May 2010.

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)**

Motor Vehicle Idling (Fixed Penalty) Bill

(LC Paper No. LS 58/09-10)

30. The Chairman said that the Panel on Environmental Affairs had discussed the relevant legislative proposals at a number of meetings. While members generally supported the policy intent of the Bill, they had expressed grave concern on its impact.

31. The Chairman proposed that a Bills Committee be formed to study the Bill in detail, having regard to the controversial nature of the legislative proposals. Members agreed. The following Members agreed to join: Ms Miriam LAU, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms LI Fung-ying, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Ms Cyd HO, Mr CHAN Hak-kan, Mr IP Wai-ming and Dr PAN Pey-chyou.

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

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- (b) **Legal Service Division report on subsidiary legislation gazetted on 23 April 2010 and tabled in Council on 28 April 2010**
(LC Paper No. LS 59/09-10)

33. The Chairman said that only one item of subsidiary legislation, i.e. the Designation of Libraries (No. 2) Order 2010, was gazetted on 23 April 2010 and tabled in Council on 28 April 2010.

34. Members did not raise any queries on the Order.

35. The Chairman reminded Members that the deadline for amending the Order was 26 May 2010.

IV. Further business for the Council meeting on 5 May 2010

Questions

(LC Paper No. CB(3) 634/09-10)

36. The Chairman said that Mr Ronny TONG had replaced his oral question.

V. Business for the Council meeting on 12 May 2010

(a) **Questions**

(LC Paper No. CB(3) 633/09-10)

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

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

(i) **Inland Revenue (Amendment) Bill 2010**

(ii) **Road Traffic (Amendment) Bill 2010**

38. The Chairman said that the Administration had given notice to present the above two Bills to the Council. The House Committee would consider the Bills at its meeting on 14 May 2010.

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion to be moved by Hon Vincent FANG**

40. The Chairman said that the subject of the motion to be moved by Mr Vincent FANG was "Reviewing the existing policy on live poultry in Hong Kong".

(ii) **Motion on "Protecting the safety and health of employees at work in inclement weather"**

(Wording of the motion issued vide LC Paper No. CB(3) 636/09-10 dated 27 April 2010.)

41. The Chairman said that the above motion would be moved by Ms LI Fung-ying and the wording of the motions had been issued to Members.

42. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 5 May 2010.

Report on subsidiary legislation the period for amendment of which will expire on 12 May 2010

43. The Chairman said that the list of subsidiary legislation the period for amendment of which would expire on 12 May 2010 had been tabled at the meeting. The Clerk would issue the relevant report to Members and invite Members to notify their intention to speak on the subsidiary legislation. The deadline for giving such notification was 5:00 pm on Tuesday, 4 May 2010.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1393/09-10)

44. The Chairman said that there were seven Bills Committees, seven subcommittees under the House Committee (i.e. three subcommittees on subsidiary legislation, one subcommittee on proposed senior judicial appointments and three subcommittees on policy issues) and nine subcommittees under Panels in action.

VII. Framework Agreement on Hong Kong/Guangdong Co-operation

(Letter dated 27 April 2010 from Hon Emily LAU Wai-hing to the Chairman of the House Committee (LC Paper No. CB(2) 1403/09-10(03))

(LC Paper No. CB(2) 1403/09-10(04))

[Previous paper:

Information paper on Framework Agreement on Hong Kong/Guangdong Co-operation provided by the Administration to the Panel on Commerce and Industry (LC Paper No. CB(1) 1559/09-10(01) issued vide LC Paper No. CB(1) 1559/09-10 to all Members on 7 April 2010)]

45. At the invitation of the Chairman, Ms Emily LAU said that the Framework Agreement on Hong Kong/Guangdong Co-operation ("Framework Agreement") was signed by the leaders of Hong Kong and Guangdong in Beijing on 7 April 2010, witnessed by the State Leaders. An information paper on the Framework Agreement was provided by the Administration to the Panel on Commerce and Industry ("CI Panel") and issued to Members. At her

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request and with the consent of the Panel Chairman, the Panel had scheduled to discuss the matter at its regular meeting in May 2010. However, as the Framework Agreement covered various policy areas but the CI Panel would only discuss those issues relevant to its policy area, Members belonging to the Democratic Party had written to different Panels proposing the discussion of the aspects of the Framework Agreement falling within their policy areas. Ms LAU considered that notwithstanding the follow-up actions taken by individual Panels, there should be a forum for Members to examine the Framework Agreement from the overall perspective, say at the House Committee. She added that the Administration would submit in May 2010 its proposal for the creation of two directorate posts in relation to the Framework Agreement to the Establishment Subcommittee for consideration.

46. The Chairman shared the view that the Framework Agreement covered various policy areas, and noted that as at 29 April 2010, 15 Panels had already planned or had received proposals to discuss it. While agreeing that it was appropriate for individual Panels to follow up in-depth on the specific aspects which fell within their policy areas, she considered it necessary for the Administration to explain to Members the Framework Agreement from the overall perspective. She proposed that the Administration be invited to attend a special meeting of the House Committee to discuss the Framework Agreement with Members.

47. Mr Albert HO supported the proposal. He said that as there had not been any consultation on the Framework Agreement, the Administration should explain the procedure for formulating it and its impact on the development and positioning of Hong Kong including the restrictions. He was concerned in particular about its impacts on the financial and infrastructure development of Hong Kong.

48. Ms Cyd HO agreed that LegCo should follow up on the Framework Agreement. She considered it important for Members to have the full text of the Framework Agreement in order to understand the rights and obligations of Hong Kong. She pointed out that on many occasions, the Administration had only informed Members verbally of agreements signed with the Mainland without providing the text of the agreements to Members.

49. The Chairman said that the full text of the Framework Agreement had already been issued to Members. Members agreed with the proposal for a special House Committee meeting on the Framework Agreement.

VIII. Any other business

50. There being no other business, the meeting ended at 2:58 pm.