

Ref : CB2/H/5/10

**House Committee of the Legislative Council**

**Minutes of the 13th meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 11 February 2011**

**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  
Hon LEE Cheuk-yan  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Dr Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon CHAN Kam-lam, SBS, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, SBS, JP  
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, SBS, JP  
Hon Tommy CHEUNG Yu-yan, SBS, 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, GBS, JP  
Hon CHEUNG Hok-ming, GBS, JP  
Hon WONG Ting-kwong, BBS, JP



Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Timothy TSO	Assistant Legal Adviser 2
Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Clara TAM	Assistant Legal Adviser 9
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 12th meeting held on 21 January 2011  
(LC Paper No. CB(2) 975/10-11)**

The minutes were confirmed.

**II. Matters arising**

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

Regulation to give effect to sanctions against Iran imposed by the United  
Nations Security Council ("UNSC")

2. The Chairman said that she had relayed to CS Members' concern that the sanctions against Iran imposed by UNSC seven months ago had not been implemented in Hong Kong because the Administration had not yet made the relevant regulation. CS had responded that as the sanctions against Iran imposed in the UNSC resolution were not commonly found in other UNSC resolutions made in the past, the Administration needed more time to study the relevant UNSC resolution. The Administration would endeavour to complete the drafting of the relevant regulation as soon as possible.

3. Dr Margaret NG said that Hong Kong should not be the only place where the UNSC resolution imposing sanctions against Iran was implemented. Given the unique and complex nature of the relevant sanctions as claimed by the Administration, she suggested enquiring with CS whether the Administration had considered making a separate law to implement the resolution concerned instead of following the legislative procedure currently provided.

4. The Chairman noted Dr Margaret NG's concern. She said that her understanding was that the Administration was already in the final stage of the drafting work and was not in the process of considering the ways to implement the resolution. She was given to understand that the relevant legislation would soon be available.

### 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)**

**Companies Bill**

*(LC Paper No. LS 26/10-11)*

5. The Chairman said that the Bill, which sought to reform and modernize Hong Kong company law, was complex and voluminous. The Panel on Financial Affairs had been briefed on the legislative proposals at a number of meetings in recent years and members had raised various concerns.

6. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr CHAN Kam-lam, Dr Philip WONG, Ms Miriam LAU, Ms Audrey EU and Mr Paul 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 21 January 2011 and tabled in Council on 26 January 2011**  
*(LC Paper No. LS 24/10-11)*

8. The Chairman said that a total of 10 items of subsidiary legislation, including one Commencement Notice, were gazetted on 21 January 2011 and tabled in the Council on 26 January 2011.

9. Regarding the Buildings Energy Efficiency (Fees) Regulation and the Buildings Energy Efficiency (Registered Energy Assessors) Regulation, the Chairman said that they were made under the Buildings Energy Efficiency Ordinance enacted by the Legislative Council ("LegCo") on 24 November 2010. They sought to prescribe the relevant fees payable and make provisions for the registration of registered energy assessors. She added that both Regulations had not been discussed by the Panel on Environmental Affairs. The Legal Service Division suggested that Members might consider it necessary to form a subcommittee to study the Regulations in detail.

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10. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party considered it necessary to form a subcommittee to study the two Regulations.

11. The Chairman proposed that a subcommittee be formed to study the Regulations in detail. Members agreed. The following Members agreed to join: Ms Audrey EU, Mr KAM Nai-wai and Miss Tanya CHAN.

12. As the deadline for amending the Regulations was 23 February 2011, the Chairman proposed to move a motion in her capacity as Chairman of the House Committee at the Council meeting of 16 February 2011 to extend their scrutiny period to 16 March 2011. Members agreed.

13. Members did not raise any queries on the other eight items of subsidiary legislation.

**IV. Legal Service Division report on subsidiary legislation gazetted on 28 January 2011**

*(LC Paper No. LS 25/10-11)*

14. The Chairman said that only one item of subsidiary legislation, i.e. the Antiquities and Monuments (Declaration of Proposed Monument) (Ho Tung Gardens) Notice, was gazetted on 28 January 2011. The Notice sought to declare the Ho Tung Gardens situated within the Rural Building Lot No. 670, No. 75 Peak Road as a proposed monument for the purpose of considering whether it should be declared to be a monument under the Antiquities and Monuments Ordinance. The declaration made by the Notice was to have effect for a period of 12 months.

15. Mr Abraham SHEK considered it necessary to form a subcommittee to study the Notice. He elaborated that while it was important to preserve the historical Ho Tung Gardens, given that land ownership was involved, he considered it necessary for the Administration to resolve the issue of compensation for the property owner during the 12-month period when the Ho Tung Gardens was a proposed monument. Citing the preservation of King Yin Lei as an example, he stressed the importance for the Administration to work out a fair compensation policy for heritage buildings.

16. Mr Abraham SHEK added that he could not make any declaration of interest at that stage as he did not know who the owner of the Ho Tung Gardens was.

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17. The Chairman proposed that a subcommittee be formed to study the Notice in detail. Members agreed. The following Members agreed to join: Mr Abraham SHEK, Prof Patrick LAU and Miss Tanya CHAN.

18. The Chairman reminded Members that the deadline for amending the Notice was 16 March 2011, or 6 April 2011 if extended by resolution.

**V. Business for the Council meeting of 16 February 2011**

(a) **Tabling of papers**

**Report No. 12/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments**

*(LC Paper No. CB(2) 977/10-11 issued vide LC Paper No. CB(3) 457/10-11 dated 10 February 2011)*

19. The Chairman said that the report covered five items of subsidiary legislation the period for amendment of which would expire on 16 February 2011. No Member had requested to speak on the subsidiary legislation.

20. Members noted the report.

(b) **Questions**

*(LC Paper No. CB(3) 452/10-11)*

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

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

**Inland Revenue (Amendment) Bill 2011**

22. The Chairman said that the Administration had given notice to present the above Bill to the Council. The House Committee would consider the Bill at its meeting on 18 February 2011.

(d) **Government motion**

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

(e) **Members' motions**

(i) **Motion on "Striving for 15-year free education"**

*(Wording of the motion issued vide LC Paper No. CB(3) 441/10-11 dated 31 January 2011.)*

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- (ii) **Motion on “Social welfare land use planning”**  
(*Wording of the motion issued vide LC Paper No. CB(3) 442/10-11 dated 2 February 2011.*)

24. The Chairman said that the above motions would be moved by Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che respectively and the wording of the motions had been issued to Members. She added that the deadline for giving notice of amendments to the motions had expired on 9 February 2011.

**VI. Business for the Council meeting of 23 February 2011**

- (a) **Questions**  
(*LC Paper No. CB(3) 451/10-11*)

25. The Chairman said that 20 written questions had been scheduled for the meeting.

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

**The Administration has advised the Clerk to the Legislative Council that the Financial Secretary intends to present to the Council at the meeting:**

- (i) **the Appropriation Bill 2011; and**  
(ii) **the Estimates of Expenditure for the year ending 31 March 2012**

26. The Chairman said that the Financial Secretary would deliver his Budget speech.

**Report on study of subsidiary legislation**

27. The Chairman said that a list containing 10 items of subsidiary legislation the period for amendment of which would expire on 23 February 2011 had been tabled at the meeting. Members who wished to speak on the subsidiary legislation should notify the Clerk by 5:00 pm on Tuesday, 15 February 2011.

28. In response to Ms Emily LAU's enquiry on whether there was any business for the Council meeting of 23 February 2011 other than the Budget, the Chairman said that it would depend on whether any Member would request to speak on the subsidiary legislation the period for amendment of which would expire on that day. Members would be notified of any further business for the Council meeting at the next House Committee meeting.

**VII. Advance information on business for the Council meeting of 2 March 2011**

**Bills - First Reading and moving of Second Reading**

**Mandatory Provident Fund Schemes (Amendment) Bill 2011**

29. The Chairman said that the Administration had given notice to present the above Bill to the Council. The House Committee would consider the Bill at its meeting on 4 March 2011.

**VIII. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2) 976/10-11)*

30. The Chairman said that there were 15 Bills Committees, eight subcommittees under the House Committee (i.e. four subcommittees on subsidiary legislation, two subcommittees on policy issues and two subcommittees on other Council business) and eight subcommittees under Panels in action.

**IX. Paper of the Committee on Rules of Procedure ("CRoP")**

**Procedure for dealing with interdependent amendments to a bill during the committee stage**

*(LC Paper No. CROP 14/10-11)*

31. Mr TAM Yiu-chung, Chairman of CRoP, said that under the Rules of Procedure ("RoP"), upon a motion for the second reading of a bill having been agreed to, the bill should stand committed to a committee of the whole Council. Rule 58(5) of RoP provided that any proposed new clause should be considered after the clauses of the bill had been disposed of and before consideration of any schedule of the bill, while Rule 58(7) of RoP provided that any proposed new schedule should be considered after the schedules of the bill had been disposed of. Under Rule 58(2) of RoP, the Chairman in a committee of the whole Council might allow a single discussion to cover a series of interdependent amendments to a bill in order to save time and avoid repetition of arguments.

32. Mr TAM Yiu-chung elaborated that where the Chairman in a committee of the whole Council considered it appropriate to allow a single discussion on a series of interdependent amendments which related to a clause, a proposed new clause, a schedule and/or a proposed new



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schedule of a bill, the Member or the public officer who was to move the amendments would need to move a motion to suspend Rule 58(5) and/or (7), in accordance with Rule 91, in order that the Chairman might order a single discussion on the interdependent amendments to enable Members to consider the new clause, the schedule and/or the new schedule together with any interdependent clause of the bill.

33. Mr TAM Yiu-chung explained that as Rule 91 of RoP stipulated that only the President might give consent for a motion to be moved to suspend a rule, whenever such a motion was to be moved, the Chairman in a committee of the whole Council would have to order the Council to resume so that the required consent for moving that motion might be given by the President. When such a motion had been voted upon, the Council would again resolve itself into committee for the continuation of the proceedings on the amendments to the bill. In the case of a bill to which multiple sets of interdependent amendments were proposed, the procedure could become cumbersome and time-consuming.

34. Mr TAM Yiu-chung further said that during the committee stage of the Minimum Wage Bill at the Council meeting of 14 July 2010, the President, in his capacity as the Chairman of the committee of the whole Council, requested CRoP to examine whether the above-mentioned procedure could be dispensed with. After reviewing the present arrangement, CRoP considered that the problem lay with the absence of an express provision in Rule 58 to provide that when there was a series of interdependent amendments to a bill, the Chairman in a committee of the whole Council might allow not only a single discussion on those amendments but also a change to the sequence of dealing with new clauses, schedules and new schedules as currently provided in Rule 58(5) and (7) of RoP. In the light of this, CRoP recommended that Rule 58(2) of RoP be amended to the effect that where there was a series of interdependent amendments to a bill, the Chairman in a committee of the whole Council might allow a single discussion on the interdependent amendments and, if necessary, change the sequence of dealing with new clauses, schedules and new schedules as currently provided in Rule 58(5) and (7) of RoP. The proposed amendments were set out in paragraph 10 of the paper.

35. Mr TAM Yiu-chung added that subject to Members' views, he would move a motion at a future Council meeting to amend RoP as proposed.

36. Members endorsed the proposed amendments to RoP.

**X. Proposal of Hon LEUNG Kwok-hung to invite Mr WANG Guangya, the Director of Hong Kong and Macao Affairs Office, to the Legislative Council to meet with Members**

*(Letter dated 19 January 2011 from Hon LEUNG Kwok-hung to the Chairman of the House Committee (LC Paper No. CB(2) 978/10-11(01))*

37. At the invitation of the Chairman, Mr LEUNG Kwok-hung said that he noted that Mr WANG Guangya, the Director of Hong Kong and Macao Affairs Office of the State Council, had met with some LegCo Members recently and this had caused concern. Mr LEUNG considered that being the head of the Hong Kong and Macao Affairs Office ("HKMAO"), Mr WANG should come to LegCo to meet with all Members and make a public address. Hence, he had proposed to invite Mr WANG to LegCo to meet with Members. He was open-minded on the detailed arrangements for the meeting such as whether a question and answer session should follow as in the case of the Chief Executive ("CE")'s Question & Answer Session. While understanding that the proposed arrangement was unprecedented, he considered this appropriate as Mr WANG had newly taken up the post as the head of the HKMAO and, being the immediate supervisor of CE, Mr WANG should meet with LegCo Members, make a public address and explain policies as CE did. In his view, should such an arrangement be institutionalized and once Mr WANG had met with all LegCo Members in public, it would not matter if he had meetings with certain Members afterwards.

38. The Chairman invited Members' views on Mr LEUNG's proposal.

39. Mr Abraham SHEK expressed strong objection to the proposal. He said that Hong Kong should uphold the principles of one-country-two-systems, Hong Kong people ruling Hong Kong and high degree of autonomy as enshrined in the Basic Law. Under the premise of "river water should not intrude into well water", he considered it highly inappropriate for an official from Beijing to come to LegCo to explain policies to LegCo Members. He said that while he was one of the Members who met with Mr WANG in Shenzhen as he happened to be there and considered the meeting conducive to enhancing mutual understanding, he had never met with the head of HKMAO in his past 11 years as a LegCo Member. He stressed that Mr LEUNG Kwok-hung's proposal would deal a severe blow to the one-country-two-systems.

40. Mr WONG Kwok-kin said that he had no particular view on the proposal. However, he was dissatisfied with the description in Mr LEUNG Kwok-hung's letter that the meeting of the pro-establishment

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Members with Mr WANG was held in private. He stressed that the meeting was made known to the public and was not secretive at all. He considered such a description unfair to the Members attending the meeting.

41. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") had no particular view on the proposal. However, he was also concerned about the content of Mr LEUNG Kwok-hung's letter. Mr IP clarified that Mr WANG was invited by the Members for the meeting. Members belonging to DAB welcomed communication and meeting with Mr WANG. He doubted if the meeting had indeed aroused dissatisfaction, uneasiness and anxiety of the pro-democratic Members as stated in Mr LEUNG Kwok-hung's letter. He added that Mr WANG was not the immediate supervisor of CE.

42. Mr LEUNG Kwok-hung said that the nature of the meeting should be decided by whether the Members met with Mr WANG in their personal capacity or in their capacity as LegCo Members. Should they meet with Mr WANG in their capacity as LegCo Members, they should have obtained the endorsement of the House Committee as in the case of the conduct of duty visits by LegCo committees outside Hong Kong. He opined that if Mr WANG wished to meet with LegCo Members, the meeting should be made formal and attended by Members of different political groupings and affiliations. He was prepared to withdraw the description in his letter of the response of the pro-democratic Members to the meeting should that be incorrect. He considered that contrary to the view of Mr Abraham SHEK, the meeting of Mr WANG selectively with some Members had violated the undertaking of the Central Government to listen to the views of different people in Hong Kong. Mr LEUNG reiterated that the Director of HKMAO was the immediate supervisor of CE.

43. Dr PAN Pey-chyou said that whether the Director of HKMAO was the immediate supervisor of CE was a matter of knowledge. He considered it misleading to attribute the nature of the meeting to the capacity in which Members met with Mr WANG. He pointed out that he was a LegCo Member irrespective of whether or not he acted in his personal capacity. While he had attended the meeting in his personal capacity, he dismissed the allegation that the meeting was conducted in private as it was attended by many journalists and the matters discussed thereat were widely reported in the media. He queried why the meeting had aroused the uneasiness of the pro-democratic Members and whether this was a fact as stated in Mr LEUNG Kwok-hung's letter.

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44. Ms Audrey EU considered it not necessary to discuss the content of Mr LEUNG Kwok-hung's letter and whether the Director of HKMAO was the immediate supervisor of CE. She said that since no Member had expressed objection to the proposal, the Chairman could, on behalf of Members, write a neutrally-worded letter to invite Mr WANG to a meeting. She stressed that inviting Mr WANG to meet with LegCo Members should not cause any concern about the violation of the principle of one-country-two-systems. Many visiting leaders of overseas countries met with LegCo Members, and this had never caused any concern about interference. She added that Members belonging to the Civic Party supported the proposal for inviting Mr WANG who was responsible for Hong Kong affairs to meet with all LegCo Members.

45. The Chairman requested Members to focus the discussion on Mr LEUNG Kwok-hung's proposal.

46. Mr LEUNG Kwok-hung said that there should not be any doubt about the capacity of those Members who had met with Mr WANG. Mr WANG met them in their capacity as individual LegCo Members. These Members did not represent LegCo, and this was the reason why he considered the meeting private in nature. In his view, only the President or the Chairman of the House Committee could represent LegCo as a whole. He reiterated that the Director of HKMAO was the immediate supervisor of CE as CE was accountable to him.

47. Mr WONG Yuk-man considered it important for Members to discuss the reasons for supporting or not supporting the proposal. He said that Mr WANG was the departmental head of an office of the Central Government responsible for Hong Kong affairs. While there was no supervisor-subordinate relationship between the Director of HKMAO and CE in the organisational hierarchy, such relationship existed in reality politically. He considered it in order for Members to invite Mr WANG who was an official of the Central Government to meet with them. There should not be any question about violation of the principle of one-country-two-systems. He further said that it had all along been the strategy of the Communist Party of China to unify friends and attack foes. As such, it was not surprising for Mr WANG to meet selectively with certain LegCo Members who had other official capacities in the constitutional structure of the People's Republic of China.

48. Mr Paul TSE sought information on whether there were precedents in the former LegCo of visiting British officials making an address in LegCo. While he considered it acceptable for visiting officials of the Central Government or overseas countries to meet with Members and

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address LegCo, his concern was that such invitation should be made respectfully and in compliance with protocol. He considered it inappropriate and unnecessary to use offensive language to advance the reasons for the proposed invitation as stated in Mr LEUNG Kwok-hung's letter.

49. Secretary General ("SG") said that there was no available information in hand on the precedents sought by Mr Paul TSE.

50. The Chairman said that there were precedents of Members inviting visiting leaders of the Central Government to meet with them. In 2006, she had written on behalf of Members to CE to convey their wish for meeting with Mr WU Bangguo, the Chairman of the Standing Committee of the National People's Congress, during his visit to Hong Kong but to no avail. She added that Members had all along supported communication with visiting leaders of the Central Government and she did not see any problem with such invitations in the implementation of the one-country-two-systems.

51. Mr Abraham SHEK said that whether the proposal had any bearing on the one-country-two-systems depended on how the invitation would be made. In his view, it was in order to enhance communication with visiting leaders of the Central Government. However, inviting an official of the Central Government to LegCo had bearing on the one-country-two-systems as LegCo was an entity in the constitutional structure.

52. The Chairman said that subject to Members' view, she would write to CE on behalf of Members to convey their invitation of Mr WANG to meet with them during his visit to Hong Kong.

53. Mr CHIM Pui-chung said that as the purpose of inviting Mr WANG to meet with Members was not clear, he objected to the invitation. He considered that individual Members could make the invitation if they wished to.

54. The Chairman said that Mr WANG had taken up the post of the Director of HKMAO recently. The meeting would be for the purpose of discussing issues of public concern and reflecting the views of the Hong Kong people to the Central Government.

55. Mr CHIM Pui-chung said that the purpose of the meeting was too broad-brush. He maintained his objection to the invitation.

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56. The Chairman put to vote the proposal of inviting Mr WANG Guangya, the Director of Hong Kong and Macao Affairs Office, to meet with Members. Mr CHIM Pui-chung requested to claim a division.

The following Members voted in favour of the proposal:

Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Ms Emily LAU, Ms LI Fung-ying, Ms Audrey EU, Mr KAM Nai-wai, Ms Cyd HO, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN.

(15 Members)

The following Members voted against the proposal:

Dr David LI, Dr Philip WONG, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr CHIM Pui-chung, Prof Patrick LAU and Dr Priscilla LEUNG.

(8 Members)

The following Members abstained:

Mrs Sophie LEUNG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr IP Kwok-him and Mr Paul TSE.

(8 Members)

57. The Chairman declared that 15 Members voted for and eight Members voted against the proposal, and eight Members abstained. She said that as the proposal was supported, she would write to CE on behalf of Members to convey their invitation to Mr WANG for him to meet with them during his visit to Hong Kong.

**XI. Proposal from Hon Alan LEONG Kah-kit for asking an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 16 February 2011 relating to the "Study on the Action Plan for the Bay Area of the Pearl River Estuary"**

*(Letter dated 10 February 2011 from Hon Alan LEONG Kah-kit to the Chairman of the House Committee (LC Paper No. CB(2)999/10-11(01))*

58. At the invitation of the Chairman, Mr Alan LEONG said that he was shocked to learn recently that the public consultation for the "Study on Action Plan for the Bay Area of the Pearl River Estuary" ("the Bay

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Area Study"), which started on 14 January 2011, had ended on 10 February 2011, with only 18 working days in between. He was concerned about the far-reaching implications of the Bay Area Study. According to the Public Consultation Digest, Mai Po and Hoi Ha Wan were included as part of the provincial forest and wetland parks, and greenways of 653 kilometres with cross-boundary cycling trails would be constructed within five years. He pointed out that the Bay Area Study was only briefly discussed at the meeting of the Panel on Development ("Dev Panel") on 25 May 2010 in the context of development related issues under the Framework Agreement on Hong Kong/Guangdong Co-operation. The paper provided by the Administration for the discussion item contained only one page of information on the Bay Area Study and it was stated therein that the Study had just commenced. Hence, he was caught by surprise when he learnt of the launch of public consultation on the Bay Area Study in January 2011.

59. Mr Alan LEONG further said that under Rule 24(4) of RoP, the President might permit an urgent question to be asked if he was satisfied that it was of an urgent character and related to a matter of public importance. In his view, the subject of his question involved significant public interests as it concerned the planning of a large portion of land in Hong Kong in which the role of the Administration was unclear. It was also urgent as the public consultation had ended on the day before the House Committee meeting. Mr LEONG noted that two officials from the Planning Department had spoken on the Bay Area Study before the consultation period ended. The Deputy Director of Planning told the media that the title of the Consultation Digest did not reflect accurately the aim of the Bay Area Study which was not so much an action plan but just a common platform for Hong Kong, Guangdong and Macao to discuss and share experience on planning projects. He also learnt from media reports that on the day before the House Committee meeting, the Administration had indicated unofficially that the consultation period might be extended for two months after some concern groups had requested to meet with the Director of Planning. He stressed that the matter was urgent and related to significant public interests as the planning of a large portion of land in Hong Kong might be taken forward upon the expiry of the consultation period. He therefore considered that the subject of his oral question had satisfied the criteria stipulated in Rule 24(4) of RoP. He appealed to Members to support his request.

60. The Chairman informed Members that the Bay Area Study had been included for discussion at the Dev Panel meeting scheduled for 22 February 2011. She further drew Members' attention to a press release issued by the Development Bureau in the afternoon of 9 February 2011 which stated that the Planning Department would organize a few more

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discussion forums in the next two months to receive public views. It would invite local experts to share their views on what constituted "liveable cities" and welcomed all who were interested to attend.

61. Mr Alan LEONG said that it was unclear from the press release whether the consultation period would be extended for two months and whether the views collected during the two months would have any impact on the results of the Bay Area Study.

62. Prof Patrick LAU, Chairman of the Dev Panel, said that apart from Mr Alan LEONG, some other Members had also expressed concern about the matter. In response to Members' concern, the Administration had proposed to include the matter for discussion at the forthcoming Dev Panel meeting on 22 February 2011 and he had agreed to the proposal. Non-Panel Members were also invited to attend the meeting. He further said that the Administration would be requested to provide a detailed information paper to facilitate Members' understanding of the Bay Area Study. Members could raise questions on its details including matters relating to public consultation. He added that as only about 20 minutes were allotted for each oral question, the asking of an oral question on the Bay Area Study could not provide sufficient time for Members to gain a better understanding.

63. Mr James TO said that he and Mr Albert HO had also written to the Chairman of the Dev Panel a few days ago requesting urgent discussion of the matter. He noted from the Chairman of the Dev Panel the inclusion of the matter for discussion at the Panel meeting on 22 February 2011. He further said that he had discussed the matter with the Secretary for Development ("S for D") at the lunch held before the House Committee meeting. S for D had told him that she would attend the Panel meeting and informed him that the Administration would continue to listen to public views and discuss with relevant parties on the Bay Area Study. In his view, an urgent oral question was only warranted had the Administration indicated that it would not receive any public views after the expiry of the consultation period. Given that the matter had been scheduled for discussion at the Panel meeting and the Administration had indicated that it would continue to listen to public views, he considered it appropriate for the matter to be discussed thoroughly at the Panel meeting. He suggested that the Chairman of the House Committee might write to S for D to convey Members' concerns and request a prompt reply for assurance that the Administration would continue to listen to public views and such views would be taken account of.



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64. Ms Cyd HO said that on the day before the House Committee meeting, she and representatives of some concern groups had met with officials from the Planning Department, but the Director of Planning had refused to attend the meeting which was requested to be broadcast on line. During the meeting, officials from the Planning Department had only indicated that the Administration would continue to listen to public views but had not mentioned about an extension of the consultation period.

65. Ms Cyd HO further said that the concern groups were dissatisfied that while the cover of the on-line consultation document stated clearly that it was a public consultation, the Administration had only written to solicit the views of professional bodies but not members of the public. There was grave concern that specific plans relating to the planning of Hong Kong based on the outcome of the consultation might be included in the National Twelfth Five-year Plan scheduled for discussion at the upcoming meetings of the National People's Congress ("NPC") and Chinese People's Political Consultative Conference ("CPPCC"). Should this be the case, the people of Hong Kong would feel betrayed. In her view, Members should discuss the matter extensively before the meetings of NPC and CPPCC. Hence, she supported the proposal for raising an urgent oral question on the Bay Area Study to enable Members to seek information from the Administration. She pointed out that it was not uncommon for issues to be discussed on numerous occasions in LegCo. She requested the Chairman of the Dev Panel to allow more time for discussion of the matter at the Panel meeting and to schedule additional meetings for further discussion if necessary.

66. Mr IP Kwok-him said that the National Twelfth Five-year Plan involved overall planning for the whole nation. It was odd to say that the Hong Kong people were being betrayed in the Bay Area Study. He pointed out that as the Bay Area Study was related to the planning of Hong Kong, Members belonging to DAB agreed with the need for adequate discussion and consultation. However, they did not consider it appropriate to raise an urgent oral question on the matter as no urgency was involved and no irreversible consequences would arise if the question was not raised. Given that the Administration would continue to consult the public and the Dev Panel had scheduled to discuss the matter, Members belonging to DAB did not support the proposal.

67. Dr Philip WONG said that he concurred with the views expressed by Mr James TO and Mr IP Kwok-him. He pointed out that as only about 20 minutes were allotted for each oral question, only a few Members could ask supplementary questions. Having regard to the importance of the Bay Area Study, he considered it more appropriate for the matter to be discussed at the Dev Panel meeting. He did not support the proposal.

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68. Dr Margaret NG said that Mr Alan LEONG had raised the proposal having regard to the urgent public concern on the matter. She elaborated that the Civic Party had learnt from many members of the public of their concern about the expiry of the public consultation on the Bay Area Study and the absence of formal consultation with LegCo over such an important matter. In her view, the matter could not be deemed to have been resolved by a mere assurance given by a public official during a lunch. The Administration owed the public a formal explanation at a Council meeting on why the public consultation had ended without the public even knowing about it. She stressed the difference between discussing the matter at a Panel meeting and raising an oral question in the Council. She gathered from the discussions that Members agreed on the importance of the Bay Area Study and the need for further discussion. Given the importance of the matter, she considered that the Administration should explain formally to Members and the public at a Council meeting on its poor handling of the public consultation. She added that 20 minutes would be sufficient for the Administration to make an urgent explanation.

69. Dr Priscilla LEUNG said that she had twice sought the permission of the President for asking an urgent oral question, but neither request had been acceded to. In December 2010, she had requested to raise an urgent oral question on the fire in Fa Yuen Street as the vendors of the affected stalls were in urgent need of assistance. Some of them had nowhere to stay and needed urgent financial assistance. Notwithstanding the urgency of the matter, her request was not approved on the ground that it could be discussed by the relevant Panel. She noted that the subject of the proposed urgent question under discussion involved macro issues. She requested the Secretariat to explain the circumstances under which an urgent oral question could be raised.

70. The Chairman said that the President had discretion to decide whether to give permission for an urgent oral question to be raised at a Council meeting.

71. At the invitation of the Chairman, SG explained that the President had all along applied the same principles as adopted by former Presidents of LegCo. In determining whether a question was of an urgent character, the President would consider whether there would be any irreversible consequences if the question was not raised at the Council meeting concerned and if it would be meaningless for the question to be raised at a future Council meeting.

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72. Mr Paul TSE considered it important for Members to follow the established mechanism. He said that he had also sought the permission of the President for asking an urgent oral question in July 2010 relating to the successive incidents of Mainland tourists being coerced to make purchases in Hong Kong. He had put forth his proposal having regard to the urgent public concern as summer months were the peak season for travel. While agreeing that the Bay Area Study was a matter of public importance, he queried the urgency for raising the proposed question, given that the matter had been scheduled for discussion at the Dev Panel meeting and discussion forums to receive public views would be held in the coming two months. It was also not the case that contracts were soon to be signed or works would soon commence. In his view, whether a request for raising an urgent question should be supported should be based on an objective assessment. He did not consider there to be any urgency with raising the proposed oral question.

73. Mrs Sophie LEUNG stressed the need for Members to consider similar requests from Members belonging to different political affiliations in a fair and objective manner and according to the established mechanism. She pointed out that the National Twelfth Five-year Plan was concerned with large-scale national planning and would unlikely involve the Bay Area Study. She agreed that the matter should be followed up at the meeting of the Dev Panel. She added that should Members have serious concern about the expiry of the consultation period, the Chairman of the House Committee might write to S for D on the matter as suggested by Mr James TO.

74. Ms Cyd HO clarified that her concern was not that Hong Kong people would be betrayed by the National Twelfth Five-year Plan. Given the lack of publicity on the public consultation on the Bay Area Study and the short consultation period of only 28 days, she considered that Hong Kong people had been betrayed by the Hong Kong Special Administrative Region ("HKSAR") Government if the limited response to the public consultation was taken to represent the majority view and used as the basis for discussion on the National Twelfth Five-year Plan at the upcoming meetings of NPC and CPPCC.

75. Ms Cyd HO said that she had all along held the view that free expression of views by Members should be facilitated as far as practicable. While agreeing that 20 minutes would not be sufficient for thorough discussion, she considered that the raising of an urgent oral question on the matter would give the Administration an initial idea of the information required by Members and the questions and answers would be recorded in the Official Record of Proceedings of the Council. She reiterated her request to the Chairman of the Dev Panel for scheduling

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additional meetings expeditiously if further discussion was needed after the meeting on 22 February. She was concerned about the lack of detailed information in the public consultation document. For instance, it was stated in the document that measures would be made to enhance the efficiency at control points but the implementation details were lacking. She pointed out that the Bay Area Study involved not only issues on environmental protection, housing policy, transport and logistics, but also legal matters and the overall population policy.

76. Mr Alan LEONG said that Hong Kong people were concerned whether the HKSAR Government had belittled itself and whether their views had been adequately reflected in the planning process of the National Twelfth Five-year Plan. He urged Members not to belittle LegCo. He pointed out that a reply given by the Administration at a Council meeting represented its official position and would be recorded in the Official Record of Proceedings of the Council, which was very different from discussions at a Panel meeting. He stressed that the raising of an urgent oral question on the matter and the discussion of it at the Panel meeting were not mutually exclusive. The reply given by the Administration in response to the oral question could form the basis for discussion at the Panel meeting. He also considered it more effective to seek a reply from the Administration direct at a Council meeting than through exchange of correspondences.

77. Mr Alan LEONG further said that under Rule 24(4) of RoP, it was for the President to decide whether to give permission for raising an urgent question. He had raised the matter for discussion at the House Committee as he hoped to get Members' support for his proposal. Even if his proposal was not supported by the House Committee, he would still seek the President's permission for asking the question.

78. Mr Alan LEONG added that in his view, the Bay Area Study had far more important implications for Hong Kong than incidents of tourists being coerced to make purchases and tree collapses as well as the fire in Fa Yuen Street. He pointed out that according to the understanding of Mr PENG Qing Hua, Director of the Liaison Office of the Central People's Government, the National Twelfth Five-year Plan to be discussed at the upcoming meetings of NPC and CPPCC would contain specific references to Hong Kong's positioning in the overall development of the country. Hence, there was cause for concern that Hong Kong people's views had not been adequately reflected in the public consultation on the Bay Area Study which lacked publicity. There was thus an urgent need for the HKSAR Government to explain to the public its role in the planning of the National Twelfth Five-year Plan. He further said that notwithstanding the remarks given by S for D to Mr

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James TO at the lunch and the press release issued by the Development Bureau on 9 February, the public consultation period had expired on 10 February. He did not know whether and when any works project relating to the construction of the greenways, which was to be completed within five years, would commence.

79. Mr Paul TSE said that even if the construction of the greenways was to commence right after the expiry of the consultation period, there would be five years for Members to follow up the matter. He further said that no Member had disputed the importance of the Bay Area Study. There was also no question of Members belittling LegCo. He stressed that the crux of the issue was whether there was urgency in raising the proposed oral question. He did not subscribe to Mr Alan LEONG's view that the subject of his oral question was more urgent than those raised by Dr Priscilla LEUNG and him in the past. He was most concerned about the setting of precedents in considering such proposals. He requested Mr Alan LEONG to specify the irreversible consequences which would arise if his oral question was not to be raised at the next Council meeting.

80. Dr Priscilla LEUNG considered it important to uphold the principle of fairness in considering Members' requests for raising urgent oral questions. She was dissatisfied that the urgency of the fire case at Fa Yuen Street had been belittled. In her view, that case complied with the criteria for asking an urgent oral question as the consequences were irreversible given the dire need of the vendors for assistance.

81. Mr Alan LEONG said that RoP 24(4) had not provided for the criteria of irreversible consequences. Permission had been given for asking an urgent oral question concerning tree collapses under this provision. He pointed out that the matter was urgent as various Government officials had given different messages to members of the public and these were confusing. He added that the discussion of the matter at the Dev Panel meeting and the raising of an oral question at a Council meeting were not mutually exclusive.

82. At the request of Mr CHEUNG Man-kwong, the Chairman suspended the meeting for two minutes.

83. After resumption of the meeting, the Chairman put to vote Mr Alan LEONG's proposal for raising an urgent oral question under RoP 24(4) at the Council meeting of 16 February 2011 relating to the "Study on the Action Plan for the Bay Area of the Pearl River Estuary".

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The following Members voted in favour of the proposal:

Mr Albert HO, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Ms Emily LAU, Ms Audrey EU, Mr KAM Nai-wai, Ms Cyd HO, Mr Alan LEONG and Miss Tanya CHAN.

(11 Members)

The following Members voted against the proposal:

Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE.

(21 Members)

The following Member abstained:

Mr CHIM Pui-chung

(1 Member)

84. The Chairman declared that 11 Members voted for and 21 Members voted against the proposal and one Member abstained. Mr LEONG's proposal was not supported.

## **XII. Any other business**

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

86. There being no other business, the meeting ended at 4:10 pm.