

立法會  
*Legislative Council*

LC Paper No. CB(2) 2638/11-12

Ref : CB2/H/5/11

**House Committee of the Legislative Council**

**Minutes of the 26th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 8 June 2012**

**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  
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 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, GBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon CHEUNG Hok-ming, GBS, JP

Hon WONG Ting-kwong, BBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon KAM Nai-wai, MH  
Hon Cyd HO Sau-lan  
Hon Starry LEE Wai-king, JP  
Dr Hon LAM Tai-fai, BBS, JP  
Hon CHAN Hak-kan  
Hon Paul CHAN Mo-po, MH, JP  
Dr Hon Priscilla LEUNG Mei-fun, JP  
Dr Hon LEUNG Ka-lau  
Hon CHEUNG Kwok-che  
Hon WONG Sing-chi  
Hon WONG Kwok-kin, BBS  
Hon IP Wai-ming, MH  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Dr Hon PAN Pey-chyou  
Hon Paul TSE Wai-chun, JP  
Dr Hon Samson TAM Wai-ho, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Tanya CHAN  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man

**Members absent:**

Hon Andrew CHENG Kar-foo  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon CHAN Kin-por, JP

**Clerk in attendance :**

Miss Odelia LEUNG                      Clerk to the House Committee

**Staff in attendance :**

Ms Pauline NG	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mr Andy LAU	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General 4

Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Kelvin LEE	Acting Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Mr Stephen LAM	Acting Senior Assistant Legal Adviser 4
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Flora TAI	Chief Council Secretary (2)3
Miss Betty MA	Chief Council Secretary (2)4
Ms Amy YU	Chief Council Secretary (2)6
Mr Timothy TSO	Assistant Legal Adviser 2
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Winnie LO	Assistant Legal Adviser 7
Ms Clara TAM	Assistant Legal Adviser 9
Miss Josephine SO	Senior Council Secretary (2)7
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

---

Action

**I. Confirmation of the minutes of the 25th meeting held on 1 June 2012**  
(*LC Paper No. CB(2) 2273/11-12*)

The minutes were confirmed.

**II. Matters arising**

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

Members' motions for extending the scrutiny period of subsidiary legislation

2. The Chairman said that she had conveyed to CS Members' concern that the motions for extending the scrutiny period of subsidiary legislation could not be dealt with at the Council meeting before the expiry of the scrutiny period of such subsidiary legislation given the many Government bills and Government motions on the Agenda of the Council. She also relayed to CS Members' request for the Administration to consider according priority to the motions for extending the scrutiny period of subsidiary legislation. CS had indicated that while he appreciated Members' concern, the Administration had to give regard to the relevant provisions in the Basic Law ("BL") concerning the order of Council business. Nevertheless, the Administration would further study the matter.

**(b) Planning of Council business to be dealt with at Council meetings before 18 July 2012**

*(LC Paper No. CB(3) 870/11-12)*

3. At the invitation of the Chairman, Secretary General ("SG") said that pursuant to Members' request at the last House Committee ("HC") meeting, the Secretariat had worked out a summary setting out the items of business which needed to be dealt with before the Legislative Council ("LegCo") was to stand prorogued from 18 July 2012, including the unfinished business carried over from the Council meetings of 2 May, 9 May, 16 May, 23 May, 30 May and 6 June 2012 as well as the new items of business scheduled for June and July 2012. Referring Members to Appendix II to the paper, SG said that according to the Secretariat's estimation, a total of about 129 hours would be required for completing the legislative process of all the Government bills for which notice had been or would be given for the resumption of Second Reading debate and for moving all the motions with legislative effect at Council meetings. There were also Members' business, such as questions, committee reports, motions on committee reports and Members' motions with no legislative effect, which would take up another 93 hours based on the average time taken for similar debates and items of business. The estimate did not include the Competition Bill ("CB") as it was then anticipated that the proceedings on that Bill could be completed at the Council meeting of 6 June. Having regard to the latest work progress of the Council, the legislative process of CB would unlikely be completed at the Council meeting of 6 June and the estimation on the number of hours required for dealing with the outstanding Council business would need to be adjusted accordingly.

4. SG further said that after consultation with the President, the Secretariat had worked out the proposed meetings days for the five Council meetings for the period from 13 June to 17 July as set out in paragraph 6 of the paper and a tentative plan for handling all items of business as set out in Appendix III. According to the Secretariat's original estimation, the proceedings on all the Government bills for which notice had been given for the resumption of the Second Reading debate could be completed at the Council meeting of 13 June, and the Council meeting of 20 June would deal with all the Government motions, including the proposed resolution relating to the re-organization of the Government Secretariat which was estimated to take about 30 hours. The Council meetings of 27 June and 4 July would deal mainly with the Residential Properties (First-hand Sales) Bill and the Companies Bill respectively, while the last Council meeting commencing on 11 July would be allocated mainly for Members' business. SG added that given the latest progress of the proceedings on CB, adjustments would have to be made to the tentative plan.

Action

5. Ms Audrey EU noted that the Secretariat was consulting Members on their availability for additional meetings of the Finance Committee ("FC") on Saturday, 16 June and Sunday, 17 June for the purpose of discussing the financial proposals relating to the re-organization of the Government Secretariat. She sought information on the consequences if the proposed resolution relating to the re-organization of the Government Secretariat could not be dealt with at Council meetings before the prorogation of the Council on 18 July whereas the relevant funding proposals had been approved by FC.

6. At the invitation of the Chairman, Legal Adviser ("LA") said that FC's approval, if obtained, would only authorize an increase in the relevant commitment in the 2012-2013 Estimates of Expenditure for implementing the re-organization of the Government Secretariat. The proposed re-organization could not be effected if it was not complemented by corresponding legislative amendments.

7. Ms Audrey EU said that there was a view that upon obtaining FC's approval of the funding proposals, the Chief Executive-elect ("CE-elect") could proceed to re-organize the Government Secretariat even if the proposed resolution was not passed by LegCo. She considered it important to seek clarification on this point and requested LA to provide legal advice in this regard.

8. The Chairman requested LA to provide a paper on the concern raised by Ms Audrey EU for Members' reference.

9. Mr Albert CHAN said that Members were not servants of the CE-elect. In his view, the CE-elect should follow the established procedure for seeking LegCo's approval for the re-organization proposals, instead of intimidating that the implementation of his policy initiatives would be affected if the proposed restructuring was not in place by 1 July 2012. He noted that the CE-elect had recently changed his stance and indicated that business would be as usual even if his re-organization proposals were not passed by LegCo before 1 July. Stressing the need to uphold the dignity of LegCo by adhering to the established mechanism for the scrutiny of legislative and financial proposals, he considered it inappropriate for the Council and FC to schedule meetings day after day to scrutinize the re-organization proposals at the unreasonable requests of the CE-elect. He further opined that the Administration should seek funding approval for the proposed re-organization after and not before the passage of the proposed resolution. He sought advice from LA on the order for considering legislative proposals and the relevant funding proposals under the existing mechanism.

Action

10. At the invitation of the Chairman, LA said that while the proposed resolution was to effect the transfer of statutory functions of relevant public officers pursuant to section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) ("IGCO"), the funding proposals were to seek FC's approval for changes to the approved Estimates of Expenditure pursuant to section 8 of the Public Finance Ordinance (Cap. 2). Legally, the proposed resolution and the funding proposals were not necessarily related. While the present sequence of seeking FC's approval before the passage of the proposed resolution was also adopted for the re-organization exercise in 2007, each case should be considered independently, having regard to its circumstances.

11. Mr Albert CHAN further sought information on the consequences if the funding proposals were approved by FC but the proposals in the proposed resolution concerning the creation of the Deputy Secretary of Department ("DSoD") posts or the Secretary for Culture post were voted down.

12. At the invitation of the Chairman, LA said that the proposed resolution did not include the post titles of the two new DSoDs. In the event that certain provisions in the proposed resolution providing for the transfer of statutory functions vested in one public officer to another public officer were not passed by LegCo, the existing public officer authorized to exercise the powers or perform the duties concerned would continue to have the statutory powers and functions vested in him or her.

13. Mr Albert CHAN was concerned that if funding approval was granted for the proposed re-organization but the relevant proposed resolution was not passed by LegCo, the funding commitment approved would become idle and the fund involved could not be deployed for providing services to the needy.

14. Referring to Appendices II and III to the paper, Mr Ronny TONG considered the estimated number of hours required for transacting all items of business too optimistic. Discounting the additional time required to be spent on the proceedings on CB, he considered the estimated 30 hours for completing the legislative process of the proposed resolution relating to the re-organization of the Government Secretariat far from adequate. Taking into account the limited time left for dealing with the many Government bills and motions with legislative effect on the Agenda of the Council, he was of the view that Saturdays and Sundays should be reserved for continuation of Council meetings instead of FC meetings. He sought advice on whether BL and the Rules of Procedure ("RoP") had any provisions in this regard.

Action

15. At the invitation of the Chairman, SG said that it had been difficult for the recent few Council meetings to finish all the items of business on the Agenda, which had to be carried over to the following Council meetings. In determining the days of each Council meeting, the President would take into account Members' availability for the meeting. As many Members had indicated their unavailability to attend the five remaining Council meetings on Saturday and Sunday of the week, the Secretariat had only proposed to resume these Council meetings on Thursday and Friday of the week. Given that fewer committee meetings had been scheduled after mid June, where necessary, some of the Council meetings could be resumed in the afternoon of the following Monday or Tuesday, while the last Council meeting of 11 July could continue until 17 July. In accordance with such a schedule, the Council would be able to complete the legislative process of all the Government bills and motions with legislative effect before the prorogation of the Council.

16. Mr Ronny TONG considered it important that priority should be accorded to completing the legislative process of bills; otherwise Members' efforts in scrutinizing the bills would be wasted.

17. SG said that since very few committee meetings had been scheduled after 2 July, subject to Members' view, the Council could meet every day in July until its prorogation on 18 July.

18. Dr Margaret NG shared the view that priority should be accorded to dealing with bills and motions with legislative effect. Given the limited time left before the prorogation of the Council and noting that FC was consulting its members on scheduling additional meetings on Saturday and Sunday to scrutinize the re-organization proposals, she stressed that it was more important for Members to deal with business relating to the current term Government rather than the next term Government. She could not understand why the CE-elect pushed so hard for the passage of his re-organization proposals before 1 July 2012. In her view, the most controversial parts of the proposals were the proposed creation of the two DSoD posts and the proposed expansion of the posts of Political Assistants. She opined that the CE-elect should seriously consider taking out these controversial proposals to facilitate the passage of the non-controversial ones so that Members could focus on dealing with the bills and motions with legislative effect.

Action

19. The Chairman said that Dr Margaret NG could reflect her views to the Administration at the meeting of the Establishment Subcommittee ("ESC").

20. Dr Margaret NG considered it appropriate to raise the matter at the HC meeting as it concerned the priority to be accorded to the outstanding items of Council business within the short timeframe before the Council was to stand prorogued.

21. Mr IP Kwok-him said that LegCo was now operating under abnormal conditions due to the filibuster of some Members during the proceedings on the Legislative Council (Amendment) Bill 2012 and their continued filibustering during the proceedings on CB. Hence, no matter how hard the Secretariat tried to squeeze time for the resumption of Council meetings, its efforts might be wasted unless Members co-operated to bring the Council back to its normal operation. He did not subscribe to some Members' views that the passage of the proposed resolution and the approval of financial proposals relating to the re-organization of the Government Secretariat were neither important nor urgent, and the discussion of which could be left to the next term Government. He considered it irresponsible on the part of some Members to obstruct the CE-elect's re-organization proposals, as it would undermine the capability of the new term Government in achieving effective governance. He appealed to Members to render their support and co-operation in completing the work of the Council before its prorogation on 18 July.

22. Mr LEUNG Kwok-hung noted that the CE-elect had recently stated that "the sky would not fall" if his re-organization proposals could not be implemented on 1 July. In his view, the CE-elect could implement his election platform under the existing structure of the policy bureaux. He shared Dr Margaret NG's view that priority should be accorded to dealing with the Government bills introduced by the current term Government, which had been scrutinized by the relevant Bills Committees long before the re-organization proposals were submitted to LegCo for consideration. He also concurred with the view that the CE-elect should take out the controversial parts from his re-organization proposals, such as the proposed creation of the two DSoD posts. He did not consider it a desirable arrangement to schedule many frequent meetings as Members would become exhausted and could be more prone to making mistakes.



Action

23. Ms Emily LAU considered it necessary for the Council to meet on more days for each of the remaining five Council meetings so as to clear the backlog and deal with the new items of business scheduled for June and July 2012. She said that as Chairman of FC, she had instructed the Secretariat to consult Members on their availability for FC meetings on Saturday, 16 June and Sunday, 17 June upon the Administration's request for reserving additional sessions on these two days for discussion of the funding proposals in connection with the proposed re-organization. She considered that priority should be given to holding Council meetings and stressed the importance of completing the legislative process of all the bills and motions with legislative effect before the Council was to stand prorogued on 18 July. She hoped that Members could demonstrate their resolve and avail themselves on Saturdays and Sundays to attend the upcoming Council meetings.

24. Mr WONG Kwok-kin said that if it were not for the filibuster of some Members during the proceedings on the Legislative Council (Amendment) Bill 2012, there would not be a huge backlog of Council business. He noted that some Members were employing the same tactic on CB. He also criticized the wasting of time caused by the frequent requests of some Members for counting the quorum of the Council with the deliberate intent of causing the Council meeting to adjourn due to a lack of quorum, so as to obstruct the implementation of the new organization structure of the Government Secretariat proposed by the CE-elect.

25. Mrs Sophie LEUNG considered the estimation made by the Secretariat too optimistic. She noted that the filibustering tactic employed by some Members had transformed from single-layered to multi-layered, occurring not only at the Council meetings but also committee meetings. She appealed to Members to persevere in completing the Council business before the prorogation of the Council.

26. Ms Cyd HO said that it was not uncommon for Members to speak a number of times to make clear their points during the Committee Stage of a bill and such debate should not be taken as filibuster. Ms HO considered that the most controversial parts of the re-organization proposals were the proposed creation of the two DSoD posts and a Culture Bureau and the unclear scope of duties of Political Assistants. She supported the proposal that these controversial parts should be taken out from the present re-organization proposals and considered separately in future, which would help expedite the process.

Action

27. Mr WONG Yuk-man said that the staff of his office had also worked out an estimate of the total time required for all items of business to be dealt with before the prorogation of the Council. There were discrepancies between the estimated time required for completing the legislative process of certain bills worked out respectively by the Secretariat and his office. He opined that he and the other Members who had engaged in filibuster should not be blamed for the adjournment of the Council meetings owing to insufficient quorum as they had attended the Council meetings concerned. He stressed that the Administration should not be allowed to jump the queue by according priority to the proposed resolution relating to the re-organization proposals. LegCo should uphold its dignity and should not become the tool of the CE-elect.

28. Mr CHAN Kam-lam said that it was useless for Members to blame one another for causing the backlog. In his view, making arrangements for the continuation of the Council meetings on more days was the most practical way to resolve the problem. He hoped that Members would not make repetitive speeches at Council meetings and would not filibuster. Members of the public could differentiate whether a Member was making a sensible speech or employing the filibustering tactic. In his view, should Members continue to filibuster to obstruct the implementation of the new organization structure proposed by the CE-elect, it would not do any good to the public and the future development of Hong Kong.

29. Mr Albert CHAN said that scheduling additional meetings for FC or arranging the Council to meet on more days could not resolve the existing problem at root. He suggested that the President should consider taking out the non-controversial items on the Agenda of the Council and holding a special Council meeting for dealing with such items.

30. The Chairman said that it was her understanding that the items of business to be dealt with at the upcoming Council meetings as set out in Appendix III were placed according to the order of business stipulated in RoP 18. The Secretariat had estimated relatively less time required for handling those bills and motions which were not controversial.

31. At the invitation of the Chairman, SG said that the items of business in the tentative plan were in accordance with the order of the notices given by the Administration for the respective items. Referring to Appendix III, SG explained that based on the estimated time required for handling each item of business on the Agenda of the Council meeting,

Action

the unfinished items would be carried over to the following Council meeting. For some items such as the Residential Properties (First-hand Sales) Bill and the Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012, the respective notices for the resumption of Second Reading debates on these bills had not yet been received and the tentative plan was based on the Administration's indication of its intention as to when to resume the Second Reading debates.

32. In response to Mr WONG Yuk-man, the Chairman said that the Secretariat had put forth a proposal in paragraph 6 of the paper on the meeting days of each of the remaining five Council meetings before the prorogation of the Council on 18 July. To provide sufficient time for the Council to deal with all the items of business, it would be necessary for the Council to meet on more days for each of these Council meetings. For the last Council meeting of 11 July, the Council would continue until 17 July.

33. Mr WONG Yuk-man sought clarification on whether, in the event that the Council could not complete its work before 18 July, the unfinished business could be dealt with in the Fifth LegCo.

34. The Chairman said that the consideration of any bill or other business of the Council was to lapse at the end of the current term.

35. Mr WONG Yuk-man further enquired about the feasibility of deferring the less urgent business to be dealt with in the Fifth LegCo.

36. At the invitation of the Chairman, SG said that the last Council meeting of 11 July was reserved mainly for Members' business. Should the legislative process for Government bills and motions with legislative effect not be completed at the Council meeting of 4 July, they could be carried over to the Council meeting of 11 July.

37. Mr WONG Yuk-man said that CB was an important and voluminous bill. He considered the Secretariat's estimation of the completion of its legislative process at the Council meeting of 6 June far too optimistic.

38. The Chairman said that the Secretariat had made its best effort to prepare a tentative plan for the upcoming Council meetings and adjustments had to be made to the plan on a weekly basis having regard to the progress of work of each Council meeting.

Action

39. Mr Albert CHAN reiterated his earlier proposal for holding a special Council meeting for dealing with all the non-controversial items on the Agenda of the Council so that they would not be held up by the controversial ones.

40. At the invitation of the Chairman, SG referred Members to Appendix III and pointed out that the nine Government bills scheduled to be transacted at the Council meeting of 13 June were not controversial and would not take a long time to complete. The total time required for completing the legislative process of these bills was estimated to be some 33 hours. In addition, it was estimated that about eight hours would be required to deal with the 16 Government motions (excluding the one relating to the re-organization proposals which was controversial) scheduled to be dealt with at the Council meeting of 20 June. Taken together, about 40 hours of Council meeting time would be required to complete the legislative process for these Government bills and motions.

41. Mr Tommy CHEUNG said that it was difficult for Members to decide and agree on which bills and motions were non-controversial. He was also concerned whether Mr Albert CHAN's suggestion would create a precedent. He expressed reservation about Mr CHAN's proposal.

42. Mr WONG Kwok-hing said that he would not speculate on individual Members' motive in putting forth certain proposals. He appealed to Members to co-operate to complete all the Council business before the prorogation of the Council on 18 July, with a view to protecting the interests of Hong Kong people, upholding the dignity of LegCo and enabling the smooth operation of LegCo. He further said that the frequent requests of some Members for counting the quorum at Council meetings was a form of filibuster and might lead to the adjournment of the Council due to a lack of quorum. Given the limited time available for meetings and the large number of unfinished business on the Agenda of the Council, he appealed to these Members to refrain from abusing their right to request the counting of the quorum of the Council.

43. Mr LEUNG Kwok-hung said that the quorum requirement of the Council was not set by the Members who had engaged in filibuster. It was Members' right to request the President to count the quorum of the Council. Had the Administration not introduced the Legislative Council (Amendment) Bill 2012, he and some other Members would not have resorted to filibuster to demonstrate their protest.

Action

44. Dr Margaret NG said that while some bills might not be highly controversial, it was important for Members to put on record their views on the bills during the proceedings at Council meetings. Citing the Mediation Bill, the Legal Practitioners (Amendment) Bill 2010, the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2012 and the Immigration (Amendment) Bill 2011 as examples, she said that these were important bills on which many Members would wish to express their views during their legislative process at Council meetings. It would be a great loss and an irony to the legal system of Hong Kong if Members had to refrain from expressing their views on these bills so as to expedite the processing of the Council business, because of the need to deal with the CE-elect's re-organization proposals. In her view, the CE-elect could have easily resolved the matter by taking out the controversial parts of the proposals.

45. Members agreed to the proposed days of the Council meetings before 18 July as set out in paragraph 6 of the paper.

46. Ms Emily LAU said that Members should mark the dates in their diary and avail themselves for the meetings.

47. The Chairman said that the Secretariat should keep the tentative plan under review having regard to the progress of each Council meeting.

### **III. Business arising from previous Council meetings**

#### **Legal Service Division report on subsidiary legislation gazetted on 1 June 2012 and tabled in Council on 6 June 2012**

*(LC Paper No. LS 77/11-12)*

48. The Chairman said that only one item of subsidiary legislation, i.e. the Securities and Futures (Short Position Reporting) Rules (Commencement) Notice (L.N. 103), was gazetted on 1 June 2012 and tabled in the Council on 6 June 2012.

49. Members did not raise any queries on the Commencement Notice.

50. The Chairman reminded Members that the deadline for amending the Commencement Notice was 4 July 2012.

#### IV. Further business for the Council meeting of 13 June 2012

(a) **Tabling of papers**

**Report No. 22/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments**

*(LC Paper No. CB(2) 2275/11-12 issued vide LC Paper No. CB(3) 872/11-12 dated 6 June 2012)*

51. The Chairman said that the Report covered nine items of subsidiary legislation, the period for amendment of which would expire on 13 June 2012. No Member had indicated intention to speak on the subsidiary legislation.

52. Members noted the Report.

(b) **Questions**

*(LC Paper No. CB(3) 865/11-12)*

53. The Chairman said that Mr James TO had replaced his oral question.

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

(i) **Legal Practitioners (Amendment) Bill 2010**

(ii) **Statute Law (Miscellaneous Provisions) Bill 2012**

(iii) **United Nations (Anti-Terrorism Measures) (Amendment) Bill 2012**

(iv) **Immigration (Amendment) Bill 2011**

(v) **Buildings Legislation (Amendment) Bill 2011**

54. The Chairman said that the Bills Committees on the above five Bills had reported to HC at the last meeting, and Members did not raise objection to the resumption of the Second Reading debates on these five Bills.

**V. Business for the Council meeting of 20 June 2012**

**(a) Questions**

*(LC Paper No. CB(3) 864/11-12)*

55. 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**

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

**(c) Government motions**

**(i) Proposed resolution to be moved by the Secretary for Labour and Welfare under the Disability Discrimination Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 743/11-12 dated 10 May 2012.)*

*(LC Paper No. LS 74/11-12)*

57. The Chairman said that the proposed resolution was for seeking LegCo's approval of the Disability Discrimination Ordinance (Amendment of Schedule 5) Notice 2012 to allow fare concession to be provided by the MTR Corporation Limited, a franchised company under the Public Bus Services Ordinance (Cap. 230) and a licensed or franchised company under the Ferries Services Ordinance (Cap. 104) in respect of public transport services operated by the respective companies. It was for the purposes of facilitating the implementation of the Public Transport Concession Scheme for the Elderly and Eligible Persons with Disabilities which enabled specified groups of persons with disabilities to travel on certain Mass Transit Railway lines, franchised buses and ferries at a concessionary fare of \$2 per trip.

58. Members raised no objection to the Administration moving the proposed resolution at the Council meeting of 20 June 2012.

**(ii) Proposed resolution to be moved by the Secretary for Labour and Welfare under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 847/11-12 dated 31 May 2012.)*

*(LC Paper No. LS 75/11-12)*

Action

59. The Chairman said that the proposed resolution was for seeking LegCo's approval to amend Part 2 of Schedule 5 to the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) to reduce the present rate of levy at 0.25% to 0.15% on the value of construction operations and quarry products.

60. Members raised no objection to the Administration moving the proposed resolution at the Council meeting of 20 June 2012.

**(iii) Proposed resolution to be moved by the Secretary for Development under the Construction Industry Council Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 846/11-12 dated 31 May 2012.)*

*(LC Paper No. LS 73/11-12)*

61. The Chairman said that the proposed resolution was for seeking LegCo's approval to increase the levy rate specified in Part 2 of Schedule 5 to the Construction Industry Council Ordinance (Cap. 587) from 0.4% to 0.5% of the value of the construction operations concerned.

62. Members raised no objection to the Administration moving the proposed resolution at the Council meeting of 20 June 2012

**(iv) Proposed resolution to be moved by the Secretary for Constitutional and Mainland Affairs under section 54A of the Interpretation and General Clauses Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 735/11-12 dated 10 May 2012.)*

*(LC Paper No. LS 76/11-12)*

63. The Chairman said that the proposed resolution was for seeking LegCo's approval to effect the transfer from 1 July 2012 of the statutory functions of four Director of Bureau ("DoBs") to the Directors of four re-organized Bureaux and a new DoB (i.e. the Secretary for Culture), and the transfer of functions of two affected Permanent Secretaries pursuant to the proposals for re-organization of the Government Secretariat by the CE-elect. At the HC meeting on 11 May, Members agreed to form a subcommittee to study the legislative amendments relating to the proposed re-organization.

64. Mr TAM Yiu-chung, Chairman of the Subcommittee to Study the Proposed Legislative Amendments Relating to the Re-organization of the Government Secretariat ("the Subcommittee"), said that the Subcommittee had held nine meetings so far since it was set up on



Action

11 May 2012. In gist, the Administration proposed to restructure the Government Secretariat currently comprising three Secretaries of Departments ("SoDs") and 11 DoBs to three SoDs, two DSoDs and 14 DoBs. The relevant legislative amendments included a proposed resolution to transfer the statutory functions of four DoBs to five DoBs following the re-organization of the Government Secretariat, and a draft order to be made by the CE in Council to amend Schedule 6 to IGCO to include the post titles of the two DSoDs and reflect the changes to the post titles of various public officers. The Administration would make the order after the proposed resolution had been passed. Both the proposed resolution and the order were intended to come into force on 1 July 2012.

65. Mr TAM Yiu-chung further reported that some members expressed support for the proposed re-organization. They considered that the Government Secretariat should be restructured on 1 July 2012 to complement the work of the CE-elect in implementing his governance philosophy and political platform. Some other members expressed objection to the proposed re-organization. In their view, as the Accountability System for Principal Officials had been implemented for more than 10 years, the Administration should conduct a comprehensive review of the Accountability System and strengthen the accountability of politically appointed officials before re-organizing the Government Secretariat, with a view to rationalizing the policy responsibilities of DoBs and resolving the inadequacies of the existing system. These members were also concerned that the proposed creation of the two DSoD posts and the restructuring of the existing Commerce and Economic Development Bureau into two new bureaux would further inflate the Government structure and affect governance efficiency. They also queried the lack of legal basis for the creation of the two DSoD posts.

66. Mr TAM Yiu-chung added said that the Administration had provided four papers to the Subcommittee to explain the transfer of the statutory functions exercised by the existing four DoBs to the five DoBs after the re-organization and the amendments to be made to the relevant legislation. The Subcommittee had scrutinized three of these papers and the relevant resolution. It would continue to scrutinize the remaining legislative amendments and the responses to be provided by the Administration to issues raised by members at the meeting to be held on 9 June 2012 from 9:00 am to 1:00 pm. The Subcommittee planned to submit its report to HC on 15 June 2012.

Action

67. Dr Margaret NG said that the Subcommittee had yet to complete its work. She considered it difficult for members to scrutinize the proposed resolution. While the legal adviser to the Subcommittee had put a lot of effort to prepare the marked-up copy of the proposed resolution to facilitate members' understanding of the transfer of statutory functions and the amendments to the relevant Ordinances, the marked-up copy alone could not throw light on the full picture of the transfer of statutory functions effected by the proposed resolution and the impact of such transfer. There was insufficient time for scrutiny and it was difficult for members to attend the meetings of the Subcommittee as many of them were held in parallel with other committee meetings.

68. Dr Margaret NG further said that many members had expressed grave concern that the functions to be exercised by the two DSoDs were not specified in any local legislation. It was her understanding that the two DSoDs could, in effect, at any time exercise all the statutory powers currently vested in the SoDs. However, according to the Deputy Law Draftsman of the Department of Justice, some of the statutory functions vested in the SoDs could not be exercised by the DSoDs. Members had requested the Administration to provide a list of such statutory functions, but such information had yet to be provided by the Administration. The Subcommittee noted from the legal adviser to the Subcommittee that after the passage of the proposed resolution, the CE in Council would make an order to amend the list of public officers set out in Schedule 6 to IGCO to include the post titles of the two DSoDs, among others. Members were concerned whether the two DSoDs could exercise any powers to be delegated to them by CE when the order came into force. Members had also sought clarification as to whether the order could be made by CE in Council if the proposed resolution was not passed, but could not get an unequivocal answer from the Administration. Dr NG requested to put on record her protest that the Subcommittee could not conduct a meaningful scrutiny of the proposed resolution owing to the lack of time and information.

69. Ms Emily LAU said that during the discussion on meeting arrangements for the Council meeting of 6 June 2012 at the last HC meeting, many Members had indicated their unavailability to attend the Council meeting on Saturday, 9 June. She was furious to note that a four-hour meeting of the Subcommittee had been scheduled for the morning of 9 June. She considered this unacceptable as Members should give priority to attending Council meeting to deal with the huge backlog of Council business.

Action

70. Ms Emily LAU further said that the re-organization proposals involved complex issues. Members found it difficult to understand some of the issues as the public officers attending the meetings of the Subcommittee provided conflicting answers to members' questions. Furthermore, the Administration had yet to provide its responses to many issues raised by members. She did not consider it appropriate for the Administration to move the proposed resolution at the Council meeting before the Subcommittee had completed its work.

71. Mr James TO said that he shared Dr Margaret NG's views on issues relating to the proposed resolution. He requested LA to provide information on which of the statutory functions currently vested in SoDs could and could not be transferred to the two DSoDs and whether there was any limit to the transfer of statutory functions from SoDs to DSoDs. He also hoped that Members could be assisted to obtain information from the Administration on the relevant justifications and analysis, so as to facilitate their understanding of the widest possible extent of the powers which could be exercised by the DSoDs should the proposed resolution and the draft order come into effect.

72. The Chairman shared the view that Members should be provided with the information sought by Mr James TO given that the post titles of the two new DSoDs were not provided in the proposed resolution. The Subcommittee should assist Members to seek clarification in this regard.

73. At the invitation of the Chairman, LA said that the legal adviser to the Subcommittee had been providing assistance to members in studying the matter. He drew Members' attention to paragraphs 9 to 12 of the Legal Service Division ("LSD") Report on the proposed resolution (LC Paper No. LS76/11-12), which had provided an analysis on the legal effect of the draft order.

74. Mr CHEUNG Man-kwong said that he was most concerned about the Administration's approach in bundling together all the re-organization proposals such that Members must either accept or reject all the proposals. Some members had expressed objection to the proposed creation of the two DSoD posts. They were concerned about the lack of legal basis for these two posts as the proposed resolution did not provide for any transfer of statutory functions to them and their power over the policy bureaux was unclear. However, Members were forced to accept or reject all the re-organization proposals even though they did not agree to the proposal concerning the two DSoDs. He queried the Administration's view that the approval of the ESC and FC for the staffing and financial proposals in connection with the re-organization of the Government Secretariat and

Action

the passage of the order made by CE in Council would accord legal basis for the DSoD posts. He sought advice from LA in this regard.

75. At the invitation of the Chairman, LA said that according to the papers provided by the Administration to ESC and FC, the effective date of the funding proposals was in line with that of the proposed resolution after it had been passed, i.e. 1 July 2012. Regarding the powers of Deputy Chief Secretary for Administration and Deputy Financial Secretary, according to the general legal principles, functions exercisable by a public officer by virtue of any Ordinance could not be transferred or delegated to another public officer. However, section 43 of IGCO provided for a mechanism under which a specified public officer could delegate his powers conferred by any Ordinance to another public officer. Subject to the views of the Subcommittee, the Administration should be requested to provide detailed explanation on the matter.

76. Mr CHEUNG Man-kwong said that the crux of the matter was the lack of legal basis for two new DSoD posts. He considered it unacceptable that while the two DSoDs had to be reported to the Central People's Government for appointment, the posts titles and the relevant transfer of statutory functions were not included in the proposed resolution.

77. Mr LEUNG Kwok-hung echoed the concern about the lack of legal basis for the two DSoD posts as the proposed resolution covered only the transfer of statutory functions of DoBs. He queried how the Administration could seek LegCo's approval for financial provisions to fund these two posts which were not provided for in law.

78. Ms Audrey EU said that Members had discussed the re-organization proposals at meetings of different committees, including the Subcommittee, ESC and various Panels. She considered it appropriate to raise at HC the proposal of Members belonging to the Civic Party that the CE-Elect's Office should split the re-organization proposals to enable the non-controversial proposals to be implemented first, while the controversial ones relating to the expansion of the Accountability System such as the creation of the DSoD posts should be dealt with later. She stressed that many important bills such as CB, the Companies Bill and the Residential Properties (First-hand Sales) Bill had yet to be dealt with by LegCo. Subject to Members' view, she hoped that the Chairman could request CS to relay Members' view on splitting the re-organization proposals to the CE-Elect's office.

Action

79. The Chairman said that the Subcommittee was still scrutinizing the relevant legislative amendments. Should Members have a consensual view on the proposal raised by Ms Audrey EU, she could convey it to CS.

80. Dr PAN Pey-chyou said that constitutionally, BL 48(5) provided for CE's power to nominate and report to the Central People's Government for appointment the principal officials in the posts of, among others, DSoDs. He pointed out that in many countries, the head of the executive branch of government had considerable latitude in forming the cabinet. In respect for the principle of separation of powers, LegCo should not obstruct the re-organization proposals of the Executive Authorities. Instead, Members should monitor whether the proposals could bring about the intended benefits.

81. Mr TAM Yiu-chung said that when he gave a verbal report on the progress of work of the Subcommittee earlier at the meeting, he had reported on the different views held by Subcommittee members on the re-organization proposals. While some members did not agree to the proposed creation of the two new DSoD posts, many members, including those belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB"), supported the proposal. Hence, he did not share the view that the Chairman should convey to CS some Members' suggestion for splitting the re-organization proposals. He added that due to the different quorum requirements for meetings of the Council and the Subcommittee, the Subcommittee with a quorum requirement of 10 members only was able to hold a meeting on Saturday, 9 June.

82. Dr Margaret NG said that the crux of the matter was the lack of provision for the functions of the proposed DSoD posts in local legislation. While the head of the executive branch of government in other countries had the power to form his cabinet, under the constitutional arrangements in Hong Kong, the Executive Authorities had to obtain the approval of LegCo in respect of legislative and funding proposals for establishing new posts. She stressed that it was incumbent upon Members to scrutinize the proposals carefully. She pointed out that paragraphs 9 to 12 of the LSD Report on the proposed resolution involved complex legal concepts. She was most concerned about the statutory functions to be exercised by the DSoDs and that it was unclear as to whether by virtue of the order to be made by CE in Council and section 43 of IGCO, CE could delegate any of his powers to the DSoDs as he thought fit.

Action

83. The Chairman requested LA to provide a paper to the Subcommittee and other non-Subcommittee Members on the information sought by Members in relation to the DSoD posts.

84. At the invitation of the Chairman, LA referred Members to paragraphs 10 to 11 of the LSD Report and clarified that the public officers specified in Schedule 6 to IGCO as amended by the order to be made by the CE in Council under section 62(3) of IGCO were only empowered to signify the exercise of power or performance of duty by CE, which was not a mechanism for delegation of substantive powers. The mechanism for delegation of substantive statutory powers by specified public officers was provided under section 43 of IGCO.

85. Dr Margaret NG requested LSD to include in its paper to Members the legal effect of the order in the light of sections 43 and 62 of IGCO.

**(d) Members' motions**

**(i) Proposed resolution to be moved by Hon TAM Yiu-chung under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 877/11-12 dated 7 June 2012.)*

86. The Chairman said that at the HC meeting on 25 May 2012, Members noted that Mr TAM Yiu-chung, Chairman of the Committee on Rules of Procedure, would move a motion to amend RoP regarding the provision of additional question slots at Council meetings in the Fifth LegCo.

**(ii) Motion to be moved by Hon CHAN Kam-lam**

87. The Chairman said that the subject of the motion to be moved by Mr CHAN Kam-lam was "Improving public healthcare services".

**(iii) Motion to be moved by Ir Dr Hon Raymond HO**

88. The Chairman said that the subject of the motion to be moved by Ir Dr Raymond HO was "Increasing land supply in Hong Kong and perfecting the land reserve system".

89. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 13 June 2012.

Report on study of subsidiary legislation

90. The Chairman invited Members to note the list containing seven items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 20 June 2012. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 12 June 2012.

**VI. Report of Bills Committees and subcommittees**

**(a) Report of the Bills Committee on Companies Bill**

91. Ms Starry LEE, Deputy Chairman of the Bills Committee, gave a verbal report on the work of the Bills Committee on behalf of its Chairman, Mr Paul CHAN, who had left the meeting. Ms LEE said that the Bill sought to comprehensively rewrite the existing Companies Ordinance (Cap. 32) to modernize it so as to meet the needs of the commercial society and enhance the competitiveness of Hong Kong. The Bills Committee had held 44 meetings to study the Bill and had invited organizations and the public to give views on different areas of the Bill at a number of meetings.

92. Ms Starry LEE further said that the Bills Committee supported the four policy objects of the Bills, namely enhancing corporate governance; ensuring better regulation of the operation of companies; facilitating business operations and meeting the needs of the small and medium enterprises ("SMEs"); and modernizing Hong Kong's companies law. Given that the majority of companies in Hong Kong were SMEs, members urged the Administration to ensure that the new requirements under the Bill would not increase compliance cost on SMEs.

93. Ms Starry LEE highlighted the major deliberations of the Bills Committee, as follows -

- (a) the Bill introduced a new formulation of "responsible person". An officer or shadow director of a company who "authorizes or permits, participates in or fails to take all reasonable steps to prevent" the contravention of relevant provisions might become criminally liable for the offences under the Bill. Members had expressed concern about the impact of the limb of "fails to take all reasonable steps to prevent" in the formulation of "responsible person" on officers and directors of SMEs. Having considered

Action

members' concern, the Administration agreed to delete the limb from the formulation of "responsible person". Members agreed to the Administration's proposal;

- (b) clause 456 of the Bill provided that a director must exercise reasonable care, skill and diligence at a standard that met both objective and subjective tests. Members had expressed concern about this provision. The Administration had explained that the object of this provision was to provide appropriate guidance to directors. The court, when determining whether a particular director had exercised reasonable care, skill and diligence, would take into account the functions carried out by the relevant director in relation to the company and the size of the company;
- (c) under the Bill, SMEs meeting any two of the following three qualifying criteria were allowed to prepare simplified financial and directors' reports: (a) total annual revenue of not more than \$50 million; (b) total assets of not more than \$50 million; and (c) no more than 50 employees. Members noted that many organizations had called for further relaxation of the qualifying criteria so that more companies were allowed to prepare simplified financial and directors' reports, thus reducing operational cost. In response to the Bills Committee's request, the Administration would amend the qualifying criteria to the effect that the total annual revenue and total assets would be increased to \$100 million each and the number of employees to 100. Companies were still required to satisfy two of the three conditions to become qualified. Members in general supported the Administration's proposed amendments;
- (d) clause 664 of the Bill proposed the retention of the headcount test for approving members' schemes in relation to arrangement, amalgamation, takeover offer, and general offer for share buy-back. Members noted the divergent views of stakeholders on the requirement. Some organizations considered that the headcount test should be abolished and the 10% objection rule under the Code on Takeovers and Mergers should be incorporated into the Bill to protect the minority shareholders. On the other hand, some SMEs and shareholder groups supported the retention of the headcount test in order to protect minority shareholders from compulsory acquisition of their shares in



Action

the context of privatizations. Members held different views on the retention of the headcount test. While some members considered it necessary to maintain the principle of "one share, one vote", other members considered it important to protect the interests of minority shareholders. After discussion, the Administration had proposed to replace the headcount test with a new requirement to the effect that for takeover offers and general offers for share buy-back, the number of votes cast against the resolution to approve a scheme of arrangement should be no more than 10% of the votes attached to all disinterested shares. Furthermore, members were concerned that minority shareholders might be reluctant to challenge a members' scheme in court because of potential risk in legal costs. To address members' concern, the Administration had proposed to add a new clause to the effect that the court might only make an order as to costs against the shareholder if the shareholder's objection to a scheme was frivolous or vexatious. Members in general accepted the Administration's proposal.

94. Ms Starry LEE added that the Bills Committee agreed to the Committee Stage amendments ("CSAs") proposed by the Administration. The Bills Committee would not move any CSA to the Bill and supported the resumption of the Second Reading debate on the Bill at the Council meeting of 27 June 2012. The Bills Committee would provide its written report later.

95. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Saturday, 16 June 2012.

**(b) Report of the Bills Committee on Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012**

96. Mr Fred LI, Chairman of the Bills Committee, gave a verbal report on the deliberations of the Bills Committee. He said that the Bills Committee had held eight meetings and had received views from the stakeholders, including trade associations and consumer advocates.

97. Mr Fred LI reported that the Bills Committee generally supported the legislative intent of the Bill to amend the Trade Descriptions Ordinance (Cap. 362) ("TDO") to extend its coverage to services, prohibit certain unfair trade practices and enhance enforcement mechanisms with a view to protecting the rights of consumers. In the course of scrutiny, members had discussed the prohibited practices proposed under the Bill. Such practices included false trade descriptions of services, misleading

Action

omissions, aggressive commercial practices, bait advertising, bait-and-switch and wrongly accepting payment. The Administration had taken on board the suggestions of members and the legal adviser to the Bills Committee on certain drafting aspects of the Bill and would move relevant CSAs to the Bill.

98. Mr Fred LI further said that the enforcement agency would issue enforcement guidelines after the enactment of the Bill to help traders to comply with the fair trading provisions and consumers to understand the scope of protection. At the request of the Bills Committee, the Administration would consult the trades and the relevant Panel on the draft enforcement guidelines.

99. Mr Fred LI added that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 27 June 2012. Noting that the Bill would come into operation in 2013 after its enactment, the Bills Committee had requested the Administration to inform Members of the timetable for implementing the amendments to the TDO, and reiterate the Administration's commitment and work plan to further examine the proposal on the mandatory cooling-off period in the speech to be delivered by the Secretary for Commerce and Economic Development during the resumption of the Second Reading debate on the Bill. The Bills Committee would provide its written report later.

100. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Saturday, 16 June 2012.

**(c) Report of the Bills Committee on Residential Properties (First-hand Sales) Bill**

---

101. Mr CHAN Kam-lam, Chairman of the Bills Committee, gave a verbal report on the work of the Bills Committee. He said that the Bill sought to provide a legal framework for the sale of first-hand residential properties.

102. Mr CHAN Kam-lam further said that the Bills Committee generally supported the Bill but members had expressed various concerns. One of the concerns was that the Bill was not applicable to the developments constructed by the Housing Authority ("HA"). Members noted that given the various requirements proposed by the Bill, there might be technical difficulties in applying such requirements to the sales practices adopted by HA. Members considered that the Administration should exempt developments constructed by HA only from certain provisions instead of granting a blanket exemption to HA's developments.

Action

Having considered members' views, the Administration agreed to move CSAs to exempt HA's developments from Part 2 of the Bill in relation to the sales arrangements for residential properties while HA would be required to comply with other requirements under the Bill. The Secretary for Transport and Housing would give an undertaking that HA would sell its flats according to the principle of transparency in Part 2 of the Bill in her speech during the resumption of the Second Reading debate on the Bill.

103. Mr CHAN Kam-lam then highlighted other issues deliberated by the Bills Committee, which included the definition of "vendor"; specifying a standard definition for gross floor area; updating information in sales brochures within the specified time frame; arrangements for distributing price lists; disclosing records of transaction; the viability of extending the provisions of misrepresentation and dissemination of false or misleading information to the sale of overseas properties in Hong Kong; clarifying when the three-year prosecution time limit started to run; defence provisions; and property electronic database.

104. Mr CHAN Kam-lam added that in response to members' views, the Administration would move various CSAs to the Bill. The Bills Committee would hold further meetings to scrutinize the CSAs to be proposed by the Administration and would submit its written report to HC after completing its work. The Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 27 June 2012.

105. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Saturday, 16 June 2012.

**(d) Report of the Subcommittee on Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2012, Building (Inspection and Repair) Regulation (Commencement) Notice and Building (Minor Works) (Amendment) Regulation 2011 (Commencement) Notice**

---

106. Mr Alan LEONG reported on the work of the Subcommittee on behalf of its Chairman, Ms Audrey EU, who had left the meeting. Mr LEONG said that the three Commencement Notices sought to appoint 30 June 2012 as the day on which the remaining provisions of the Buildings (Amendment) Ordinance 2011 and the whole of the Building (Inspection and Repair) Regulation and the Building (Minor Works) (Amendment) Regulation 2011 were to come into operation, so as to implement the Mandatory Building Inspection Scheme ("MBIS") and the Mandatory Window Inspection Scheme ("MWIS").

Action

107. Mr Alan LEONG further reported that the Subcommittee had held one meeting with the Administration to discuss the preparatory work for the rollout of MBIS and MWIS, which included progress of registration of registered inspectors, publicity and provision of financial assistance to owners. Members had requested the Administration to undertake to report to the relevant Panel the latest developments of MBIS and MWIS by the end of 2013. The Hong Kong Housing Society and the Urban Renewal Authority should also undertake to conduct jointly the yearly review of the eligibility criteria for the Mandatory Building Inspection Subsidy Scheme.

108. Mr Alan LEONG added that the Subcommittee had requested the Administration to provide supplementary information on the two Schemes. Should the Subcommittee consider it not necessary to take any follow-up action after considering the supplementary information, it would submit its written report to HC.

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

*(LC Paper No. CB(2) 2274/11-12)*

109. The Chairman said that there were four Bills Committees, 10 subcommittees under HC (i.e. seven subcommittees on subsidiary legislation, one subcommittee on policy issues and two subcommittees on other Council business) and six subcommittees under Panels in action.

110. Regarding the Subcommittee on Public Health and Municipal Services (Fees and Charges) (Leisure Facilities) Regulation, the Chairman said that Members had been informed via a circular dated 28 May 2012 issued by the Secretariat that as only one Member had signified to join the Subcommittee by the deadline for signification of membership, the Subcommittee could not be formed in accordance with rules 21(b) and 26(f) of the House Rules which provided that a subcommittee should consist of not less than three members. Members noted.

**VIII. Priority allocation of a debate slot to the Chairman of the Subcommittee on Improving Barrier Free Access and Facilities for Persons with Disabilities under the Panel on Welfare Services**

*(LC Paper No. CB(2) 2270/11-12)*

111. Mr CHEUNG Kwok-che, Chairman of the Panel on Welfare Services, said that the Subcommittee on Improving Barrier Free Access and Facilities for Persons and Disabilities under the Panel on Welfare

Action

Services had completed its work and had submitted its report to the Panel on 29 May 2012. The Subcommittee had made a number of recommendations. In view of the wide public concern about the provision of barrier free access for persons with disabilities, and the scope of the retrofitting programme, members considered it necessary to hold a debate on the Subcommittee's report so as to provide an opportunity for Members to express their views on the subject and for the Administration to respond. The Panel endorsed the Subcommittee's recommendation.

112. Mr CHEUNG Kwok-che further said that the Panel proposed to seek the agreement of HC under rule 14A(h) of the House Rules for priority allocation of a debate slot to Mr WONG Sing-chi, Chairman of the Subcommittee, for moving a motion for debate on the Subcommittee's report at the Council meeting of 4 July 2012. The wording of the motion was set out in the Appendix to the paper. He appealed to Members to support the Panel's request.

113. Members agreed to the Panel's request for priority allocation of a debate slot to the Chairman of the Subcommittee for moving a motion for debate on the Subcommittee's report at the Council meeting of 4 July 2012.

114. The Chairman sought Members' view on whether there should be one or two other motions without legislative effect to be moved by individual Members for debate at the Council meeting of 4 July 2012.

115. Mr CHAN Kam-lam considered that there should only be one other motion debate without legislative effect at that Council meeting. Members agreed.

**IX. Requests for discussing issues relating to the hotel accommodation arrangements for the Chief Executive's duty visits outside Hong Kong**

**(a) Letter from Hon KAM Nai-wai**

*(Letter dated 1 June 2012 from Hon KAM Nai-wai to the Chairman of the House Committee (LC Paper No. CB(2) 2257/11-12(01) issued on 4 June 2012))*

**(b) Letter from Hon WONG Sing-chi**

*(Letter dated 5 June 2012 from Hon WONG Sing-chi to the Chairman of the House Committee (LC Paper No. CB(2) 2290/11-12(01)))*

(c) **Letter from Hon Albert HO**

*(Letter dated 5 June 2012 from Hon Albert HO to the Chairman of the House Committee (LC Paper No. CB(2) 2290/11-12(02)))*

116. The Chairman reminded Members that the FC meeting was scheduled to be held immediately after the HC meeting at 4:30 pm. As it was already 4:24 pm and the discussion could unlikely be finished within the remaining few minutes, she sought Members' view on the following two options: (a) deferring the discussion of this item to a special HC meeting; or (b) suspending the HC meeting at 4:30 pm and resuming it after the first FC meeting at around 6:30 pm to continue the discussion on this item.

117. Mr WONG Sing-chi considered it preferable to resume the HC meeting after the first FC meeting so that the matter could be discussed as early as possible.

118. Mr IP Kwok-him suggested deferring the discussion of this item to the next regular HC meeting to be held on 15 June 2012.

119. Mr WONG Kwok-kin sought clarification on whether HC was to discuss the substantive motions put forward by Members or the appropriateness for HC to deal with these motions.

120. The Chairman said that Mr KAM Nai-wai, Mr WONG Sing-chi and Mr Albert HO had written to her respectively requesting to discuss issues relating to the hotel accommodation arrangements for the Chief Executive ("CE")'s duty visits outside Hong Kong. Mr KAM had proposed to discuss ways to follow up on the Director of Audit ("DoA")'s report on the hotel accommodation arrangements for CE's duty visits outside Hong Kong ("DoA Report"), while Mr WONG and Mr HO had put forward substantive motions for HC's consideration. Given the concerns expressed by some Members about the appropriateness of HC dealing with the motions put forward by Mr WONG and Mr HO, Members might wish to consider holding a special HC meeting to allow more time for discussion of the matter.

121. Mr Albert HO said that the matter at stake was time-critical. He considered it more appropriate for HC to resume the meeting after the first FC meeting to continue the discussion.

122. Mr James TO said that it was the normal practice for HC to resume its meeting after the FC meeting scheduled for the same afternoon to deal with any unfinished business on the agenda. He

Action

shared the view that the matter under discussion was time-critical and important. Given the impending expiry of the term of office of the incumbent CE, he considered that HC should discuss the matter as early as possible.

123. As it was already 4:30 pm, the Chairman directed that the HC meeting be suspended and resumed after the first FC meeting at around 6:30 pm to deal with the unfinished business on the agenda.

*(The meeting was suspended at 4:30 pm and resumed at 6:44 pm.)*

124. Mr CHAN Kam-lam said that HC prepared Members for Council meetings and considered matters relating to the business of the Council. In his view, HC was not an appropriate forum for debating the motions put forward by Members belonging to the Democratic Party ("DP"). Furthermore, he considered that there was more urgency in dealing with the items on the Agendas of FC and the Council, which were scheduled to resume their meetings after the HC meeting.

125. The Chairman said that she had given careful consideration to whether the requests of the three Members concerned should be included in the agenda for the HC meeting. She invited SG to explain the past practice of HC in this regard.

126. SG said that according to Rule 75(11) of RoP, "HC may consider, in such manner as it thinks fit, any other item relating to the business of the Council". It was the normal practice for HC to consider at its regular meetings items of business to be dealt with at Council meetings and the handling of bills referred to HC by the Council. There had been numerous occasions in the past where special HC meetings were held to discuss ways to follow up on issues straddling the policy areas of various Panels. In the current term of LegCo, HC had held some 10 special meetings to discuss subject matters of significant public interest straddling different policy areas, such as the Lehman Brothers minibonds incident, Hong Kong-Guangdong co-operation, the Population Policy and the West Kowloon Reclamation Concept Plan Competition. It was for HC to decide how a matter should be dealt with.

127. Mr Albert CHAN said that HC was an appropriate forum for discussing issues involving public interest. As early as February 2012, he had requested to raise an urgent oral question at the Council meeting of 22 February 2012 concerning CE's alleged acceptance of entertainment and advantages from some tycoons, but his request was not acceded to. While supporting the moving of the motions proposed by Mr WONG Sing-chi and Mr Albert HO at the HC meeting, he

Action

considered it more desirable to move an impeachment motion on CE at a Council meeting. However, given the progress of the Council meetings, the impeachment motion could unlikely be moved before 1 July 2012. In his view, the corrupt practices of CE had brought Hong Kong into disrepute and CE should step down from his office. If similar allegations of corrupt practices were made against a public official in Western democracies such as Europe, Australia, Canada, New Zealand or the United States of America, the public official concerned would have already stepped down. He considered it appropriate for Members to vote on the motions proposed by Mr WONG and Mr HO as it would provide an opportunity for Members to openly express and put on record their political stance on the matter.

128. Ms Emily LAU said that members of the public were furious at the series of corrupt acts committed by CE, particularly considering that he had served in the civil service for such a long period of time. Given the uncertainty as to whether the impeachment motion jointly initiated by 23 Members could be moved at the Council meeting, and the public expectation on LegCo Members to state openly their stance on the corrupt acts of CE, she considered it appropriate for Members to discuss and vote on the motions proposed by Mr WONG Sing-chi and Mr Albert HO at the HC meeting. Members of DP were of the view that CE should shoulder the responsibility for his wrongdoings by resigning and returning to the Treasury of the Hong Kong Government the extra money spent on accommodation.

129. Ms Cyd HO said that the motion jointly initiated by 23 Members concerning the impeachment of CE could unlikely be moved at the Council meeting before the end of the current term Government on 30 June 2012, given the large amount of unfinished business on the Agenda of the Council. Should more than half of all LegCo Members indicate at this HC meeting their disapproval of CE's corrupt acts, it would send a clear message to CE that he should resign. In her view, CE should be interdicted pending investigation by the Independent Commission Against Corruption. She did not consider the need to ensure smooth transition between the current term and the next term Governments a valid reason for CE not resigning.

130. Mr WONG Kwok-kin considered that Members should discuss whether the motions should be dealt with at the HC meeting before expressing their views on the contents of the motions. He stressed that there were established rules governing the moving of individual Members' motions at Council meetings, including moving of amendments, speaking time limits and voting arrangements. HC, however, did not have similar rules. Should a vote be taken on the two



Action

motions at the HC meeting, he was concerned that it would set a bad precedent, which, in his view, might open the floodgate for abuse. He added that even if the motions were voted on and passed by HC, they did not have any legislative effect. Hence, he did not see any urgency in discussing the matter at the HC meeting.

131. At the invitation of the Chairman, SG explained the past practices of HC in considering motions/proposals put forward by Members. SG said that motions moved or proposals raised by Members for discussion at regular HC meetings normally concerned ways to follow up on matters of public concern, such as the proposed formation of a subcommittee to study a particular subject matter or the issuance of a letter to the Administration requesting certain actions. There were also cases where HC convened special meetings to discuss specific issues of public concern. Public officials were normally invited to attend these special HC meetings to respond to Members' questions, and motions urging the Administration to take appropriate follow-up actions had been moved at these meetings.

132. SG further cited some examples of motions moved or proposals made by Members/committees for discussion at HC meetings. They included the motion requesting the Secretary for Security to defer the motion debate on the Public Order Ordinance considered at the HC meeting on 10 November 2000; and the motion for setting up a select committee to inquire into the building problems in the production of public housing units having regard to the circumstances surrounding the incidents in Tin Chung Court, Shatin Area 14B Phase 2, Tung Chung Area 30 Phase 3 and Shek Yam Estate Phase 2 discussed at the HC meeting on 5 January 2001. These matters were related to the business of the Council.

133. Referring to the paper prepared by the Secretariat containing examples of motions moved or proposals made by Members/committees for discussion at HC meetings which was tabled at the meeting, the Chairman pointed out that there were some examples, the subject matters of which were not related to business of the Council. A case in point was the courses of action to be taken by Members in response to North Atlantic Treaty Organization's bombing of the Chinese Embassy in Yugoslavia which were discussed at the HC meeting on 10 May 1999.

*(Post-meeting note: The paper prepared by the Secretariat was issued to Members vide LC Paper No. CB(2) 2338/11-12 on 11 June 2012.)*

Action

134. Mr Ronny TONG said that there was no point in further discussing whether it was appropriate for HC to discuss and take a vote on the two motions. In his view, in expressing their support or otherwise for the moving of these motions at the HC meeting, Members had already indicated their stance on whether CE should resign.

135. Mr LEE Wing-tat said that individual Members' motions passed at Council meetings did not have legislative effect as well. He did not see any reason why Members could not express their views and vote on the two motions put forward by Mr WONG Sing-chi and Mr Albert HO at the HC meeting. He considered that Members should reflect the strong view of the public that CE should resign. He noted that Ms CHAN Yuen-han of the Hong Kong Federation of Trade Unions ("FTU") had expressly indicated her support for the proposal of triggering the impeachment mechanism against CE and the Chairman of HC had indicated her strong disapproval of CE's acts. He hoped that Members respectively belonging to FTU and the Liberal Party would support the motions proposed by Mr WONG and Mr HO in line with the views expressed by their party leaders.

136. Mr Alan LEONG said that LegCo had the responsibility to reflect public views. He recalled that a motion for invoking the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") in connection with issues relating to CE's acceptance of entertainment and advantages and a Members' motion on "Vote of no confidence in CE" had been moved at Council meetings. However, owing to the heavy Agenda of the Council, the motion jointly initiated by 23 Members concerning the impeachment of CE could unlikely be moved at the Council meeting before the end of the term of office of the incumbent CE on 30 June 2012. Under such circumstances, Members belonging to the Civic Party were of the view that HC, which comprised all Members except the President, provided the best forum for Members to express their views on the matter and reflect the public dissatisfaction with the acts of CE. Noting from the information provided by the Chairman and SG that HC had all along responded to issues of public concern in ways appropriate to the circumstances, he considered that it was for HC to determine the appropriate course of action to be taken to deal with the matter.

137. Referring to the paper prepared by the Secretariat, Mr Fred LI said that while many of the motions moved at HC meetings concerned proposals for appointment of select committees or inviting Government officials to brief members on certain subject matters, there were cases where motions to express Members' stance on certain matters had been discussed and moved at HC meetings in the past. For example, at the

Action

meeting on 23 March 2001, HC discussed Mr LAU Chin-shek's proposal for the Chairman of HC to move a motion, on behalf of Members, to bid farewell to Mrs Anson CHAN, the then Chief Secretary for Administration, at the Council meeting of 25 April 2001. The proposal was not supported. At the HC meeting on 2 May 2008, Mr Martin LEE moved the following motion to express dissatisfaction about the poor attendance of the Financial Secretary during the resumption of the Second Reading debate on the Appropriation Bill 2008: "That this Council wholeheartedly and willingly accepts and supports with warm applause the Financial Secretary's adopting an attitude of showing a disregard for this Council and choosing whether to come to attend the meetings of this Council at his own will." Mr Martin LEE's motion was put to vote and negatived. Furthermore, Mr Albert CHAN, Mr LEUNG Kwok-hung and Mr WONG Yuk-man jointly moved without prior notice the following motion at the HC meeting on 6 March 2009: "That this Committee strongly condemns the Government for breaching its pledge by delaying the drafting of the legislation and depriving the public of their basic rights." These examples showed that it was not unprecedented for HC to deal with motions expressing certain stance on issues such as those proposed by Mr WONG Sing-chi and Mr Albert HO.

138. Dr PAN Pey-chyou said that while many members of the public had expressed dissatisfaction with the luxurious hotel accommodation arrangements for CE's duty visits outside Hong Kong, he noted that there were also views that the arrangements should not affect the dignity of Hong Kong. As CE would be attending a Question and Answer Session ("Q&A Session") on 14 June 2012, he considered the Q&A Session an appropriate forum for discussing the matter as Members could raise questions direct to CE for his replies and it would not be necessary to schedule another meeting for the purpose. It would also be fair to CE to have an opportunity to explain the matter.

139. Mr IP Kwok-him said that HC prepared Members for Council meetings and considered matters relating to the business of the Council. He therefore considered it inappropriate for Members to move motions on policy issues for discussion at HC meetings. He stressed that motion debates on policy issues should take place at Council meetings, and not HC meetings, and cautioned against setting a precedent in this regard. Mr IP noted from the paper prepared by the Secretariat that in the context of the discussion on the report of the Panel on Housing on disposal of surplus Home Ownership Scheme and Private Sector Participation Scheme flats at the HC meeting on 22 April 2005, Members agreed that it was not appropriate for a Panel to refer a policy issue to HC for discussion as it was not the function of HC to discuss

Action

policy issues. Having regard to the above considerations, he considered that Members should only discuss the handling of the motions put forward by Mr WONG Sing-chi and Mr Albert HO but not the contents of the motions.

140. Mr Albert HO said that it was not uncommon for Members to discuss and take a stance on a specific matter at HC meetings. For instance, Members discussed and agreed to the proposal for the Chairman of HC to write to Premier WEN Jia-bao on behalf of Members to convey their sincere condolences to the victims of the earthquake in Sichuan Province at the HC meeting on 16 May 2008. In his view, RoP 75(11) should be construed in a wider sense and HC might consider motions of different nature. The public had expectation on Members to state openly their stance on the unacceptable acts of CE. As Members did not have the opportunity to debate the matter at a Council meeting given the heavy Agenda of the Council, he did not see any problem for Members to express their views through the forum of HC. He stressed that Members should not shy away from taking a vote on the two motions at the HC meeting on procedural ground. Should the motions be passed, the Chairman of HC should relay to CE Members' view that he should resign.

141. Referring to RoP 75(11) which stipulated that HC might consider, in such manner as it thought fit, any item relating to the business of the Council, the Chairman said that it was for HC to decide whether the motions should be dealt with.

142. Dr Philip WONG suggested that the matter be referred to the Panel on Economic Development ("EDEV Panel") for follow-up.

143. Mr KAM Nai-wai queried the rationale put forward by some Members for not dealing with the motions proposed by Mr WONG Sing-chi and Mr Albert HO at the HC meeting. In his view, some Members were filibustering for the purpose of protecting the incumbent CE ("拉布保貪曾").

144. Mr WONG Yuk-man and Mr Albert CHAN expressed dissatisfaction with the remark "拉布保貪曾" made by Mr KAM Nai-wai. They requested Mr KAM to clarify the meaning of his remark.

145. Mr KAM Nai-wai clarified that he was referring to Dr Philip WONG's and Dr PAN Pey-chyou's suggestions of referring the matter to the EDEV Panel or deferring its discussion at the CE's Q&A Session when he said "拉布保貪曾". He added that the DoA Report had stated

Action

clearly that adequate documented justification for CE's accommodation in superior/presidential suites was not available on many occasions. The public would find it unacceptable if Members used procedural ground to shy away from indicating a stance on the matter by way of voting.

146. Dr LAM Tai-fai said that he did not object to the request of obtaining more information on the matter from CE at an appropriate time. He shared the view that the CE's Q&A Session to be held in a few days on 14 June 2012 was a suitable forum for Members to elicit replies direct from CE on the matter. Where necessary, the duration of the Q&A Session could be extended to two or three hours to allow more time for Members to raise questions.

147. Dr Margaret NG considered it within the terms of reference of HC to discuss and vote on the motions under discussion. However, whether it was appropriate for HC to do so was a separate issue for Members to decide.

148. Mr WONG Yuk-man said that he and some other Members had resorted to filibuster to demonstrate their protest against the Legislative Council (Amendment) Bill 2012. Summarizing the recent spate of events surrounding CE's alleged acceptance of advantages and corrupt acts, he criticized Members belonging to DP for not supporting the proposals raised by Members belonging to People Power and Mr Paul TSE for triggering the impeachment mechanism against CE in February 2012. Should the motion concerning impeachment of CE be moved at an earlier Council meeting, it would have been dealt with by the Council, instead of being held up by the huge backlog of Council business. In his view, it were Members belonging to DP who were "拉布保貪曾". He criticized Members for having missed the most opportune time to press for CE's resignation, albeit he would support the present proposals put forward by Members belonging to DP.

149. Mr WONG Sing-chi said that he noted from the discussion that it was not the first time that motions of similar nature as those proposed by him and Mr Albert HO were discussed at HC meetings. Given the wide public concern about the corrupt conduct of CE, Members were duty-bound to exercise their powers to follow up on the matter through HC. He could not understand why Members belonging to the pro-establishment camp were so afraid of making clear their stance on the matter at the HC meeting.

Action

150. Mr LEUNG Kwok-hung said that he had repeatedly criticized CE's corrupt acts. Given the recent sequence of events surrounding CE and the gravity of the allegations made against him, he saw no reason why Members belonging to the pro-establishment camp should remain silent on the matter.

151. Mr Albert CHAN opined that Members should have responded much earlier to the recent spate of events concerning CE's corrupt acts by pressing for his resignation. In his view, HC, comprising 59 Members, was the most representative committee in the Council and it was appropriate for Members to express their views on the matter at the HC meeting. He stressed that it was not only procedurally unjust to vote down the proposals for dealing with the motions at the HC meeting; the public would also be disappointed with the failure of LegCo to perform its role of monitoring the Executive Authorities.

152. Mr KAM Nai-wai said that the purposes of the two motions respectively proposed by Mr WONG Sing-chi and Mr Albert HO were to demand CE to return to the Treasury of the Hong Kong Government the extra money spent on accommodation during duty visits outside Hong Kong and to take the blame and resign. Should the two motions be passed at the HC meeting, HC's views could be conveyed to CE before the Q&A Session scheduled for 14 June 2012.

153. Mr TAM Yiu-chung pointed out that HC had discussed issues relating to the incumbent CE's integrity at its regular and special meetings on 21 February, 24 February, 2 March and 13 April 2012. Members had had ample opportunity to express their views and make their stance clear on the matter at these meetings. Furthermore, an adjournment debate on the integrity and probity of CE and a motion debate on "Vote of no confidence in CE" had also been held respectively at the Council meetings of 29 February and 18 April 2012. The matter brought up for discussion at this HC meeting was thus nothing new. While he did not wish to speculate on the motive of the three Members for raising the proposals under discussion, their intention was evident. Members belonging to DAB did not consider it appropriate for HC to deal with the two motions, as the issues raised therein should be debated and voted on at a Council meeting. He cautioned about opening the floodgate should Members agree that the two motions be dealt with at the HC meeting. He stressed that Members should follow established practice and procedures governing the moving of motions at Council meetings if they wished to initiate motion debates on certain subject matters.

Action

154. Dr LAM Tai-fai opined that the three Members raised the proposals for discussion at the HC meeting for political purpose. He reiterated his view that the upcoming CE's Q&A Session scheduled for 14 June 2012 was a suitable forum for discussion of the matter. Should he have the opportunity to raise questions at the Q&A Session, he would put to CE appropriate questions relating to the matter.

155. Mr WONG Sing-chi said that Members belonging to the pro-establishment camp should not resort to procedural grounds to obstruct other Members from moving motions requesting CE to step down and return the extra money spent on accommodation to the Treasury. He stressed that Members could only put questions to CE at the Q&A Session but could not take a vote on the issues raised respectively by him and Mr Albert HO.

156. The Chairman reminded Members that according to RoP 75(11), it was for HC to decide how the proposals put forward by the three Members should be dealt with.

157. In response to Ms Audrey EU and Dr Margaret NG, the Chairman said that given the different views expressed by Members on whether the two motions proposed by Mr WONG Sing-chi and Mr Albert HO should be dealt with at the HC meeting, the matter would have to be put to vote.

158. Mr KAM Nai-wai said that the DoA Report could not be considered by the Public Accounts Committee as it was not presented to the Council. He had therefore proposed that issues relating to the DoA Report be discussed by HC. As the nature of his proposal was different from those of Mr WONG Sing-chi and Mr Albert HO which were in the form of motions, it should be dealt with separately. Members agreed.

159. In response to Mr Albert HO, the Chairman clarified that the agenda item was to discuss the proposals of the three Members concerning the hotel accommodation arrangements for CE's duty visits outside Hong Kong. She reiterated that according to RoP75(11), it was for HC to decide on the ways to deal with the proposals.

160. Mr James TO said that it was his understanding that as the matter had been placed on the agenda for the HC meeting, the two motions proposed by Mr WONG Sing-chi and Mr Albert HO should be put to vote after they had been formally moved by the Members concerned.

161. At the invitation of the Chairman, SG said that Mr WONG Sing-chi and Mr Albert HO had written respectively to the Chairman of HC to put forward their requests for HC to discuss issues relating to the

Action

hotel accommodation arrangements for the CE's duty visits outside Hong Kong. The matter which HC was considering was therefore their requests for discussion of the subject matter at HC and not the motions they had included in their letter. As there were different views among Members on whether it was appropriate for HC to deal with the two motions, HC had to take a decision on the matter.

162. Mr WONG Sing-chi said that he and Mr Albert HO had the right to move their proposed motions at the HC meeting.

163. Mrs Sophie LEUNG said that Members should express their support or otherwise to the question as to whether the two proposed motions should be dealt with at the HC meeting by way of voting.

164. In response to Mr James TO, the Chairman said that there was no express rule stipulating how motions proposed by Members should be dealt with at HC meetings. Hence, whether the motions proposed by Mr WONG Sing-chi and Mr Albert HO should be dealt with were a matter for HC.

165. Dr LAM Tai-fai said that according to his understanding, the decision to be taken by HC was whether the proposals of Mr WONG Sing-chi and Mr Albert HO should be discussed at the HC meeting.

166. Mr WONG Yuk-man asked whether HC's procedures for dealing with motions apply to FC.

167. The Chairman said that the FC Procedure had express provisions governing the moving of motions by members at FC meetings. There was, however, no express rule providing for such procedure at HC meetings.

168. The Chairman first put to vote the following proposal concerning Mr WONG Sing-chi's motion -

"本委員會同意處理議程第IX項中黃成智議員在2012年6月5日函件中提出的議案。"

(Translation)

"That this Committee agrees to deal with the motion proposed by Mr WONG Sing-chi under agenda item IX as stated in his letter dated 5 June 2012."



Action

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 LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN and Mr WONG Yuk-man.  
(18 Members)

The following Members voted against the proposal:

Dr David LI, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Dr Samson TAM.  
(23 Members)

169. The Chairman declared that 18 Members voted for and 23 Members voted against the proposal and no Member abstained. The proposal was not supported.

170. The Chairman then put to vote the following proposal concerning Mr Albert HO's motion -

"本委員會同意處理議程第IX項中何俊仁議員在2012年6月5日函件中提出的議案。"

(Translation)

"That this Committee agrees to deal with the motion proposed by Mr Albert HO under agenda item IX as stated in his letter dated 5 June 2012."

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 LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN and Mr WONG Yuk-man.  
(18 Members)

Action

The following Members voted against the proposal:

Dr David LI, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Dr Samson TAM.  
(23 Members)

171. The Chairman declared that 18 Members voted for and 23 Members voted against the proposal and no Member abstained. The proposal was not supported.

172. Regarding his proposal for HC to discuss issues raised in the DoA Report, Mr KAM Nai-wai suggested that should his request be acceded to, representatives from the CE's Office and the relevant Hong Kong Economic and Trade Offices ("ETOs") be invited to attend the meeting. If possible, invitation should also be extended to DoA as his attendance would facilitate Members' discussions.

173. Mr IP Kwok-him said that as the relevant ETOs were responsible for making arrangements for CE's overseas duty visits, he considered that the matter should be discussed by the relevant Panel which monitored the work of ETOs.

174. Mr Abraham SHEK supported Mr IP Kwok-him's proposal for referring the matter to the relevant Panel.

175. Mr Jeffrey LAM said that should HC agree to refer the matter to the EDEV Panel, he, as Panel Chairman, would deal with it.

176. Mr WONG Ting-kwong clarified that ETOs reported their work to the Panel on Commerce and Industry ("CI Panel"), not the EDEV Panel. He cautioned that Members should be prudent in considering the proposal of inviting representatives of ETOs to meet with Members, as it would incur a great deal of expenditure to fly them back to Hong Kong to attend a meeting.

177. Mr LEE Wing-tat said that as the issues involved straddled various policy areas, he considered it more appropriate for the matter to be followed up by HC. In his view, it was not necessary to invite representatives of the responsible ETOs to meet with Members at the present stage, as the CE's Office should be accountable for the

Action

expenditure incurred on CE's hotel accommodation during duty visits outside Hong Kong. Given that the Director of the CE's Office ("D/CEO") had openly said that he would assume responsibility for the matter and the CE's Office did not have a corresponding Panel, he considered it appropriate for HC to convene a special meeting to discuss the matter.

178. Mr James TO supported Mr LEE Wing-tat's proposal that the matter be discussed at a HC meeting. He suggested that if necessary, arrangements could be made for representatives of ETOs to meet with Members through video conferencing.

179. Mr Ronny TONG said that as D/CEO had indicated that he would bear responsibility for the matter, he should be invited to attend the relevant meeting. He considered it appropriate for the matter to be discussed by HC as it comprised all Members except the President. Should the matter be discussed by individual Panels, non-Panel Members could not vote if any motion was moved at the meeting.

180. Mr KAM Nai-wai said that 10 out of all the 11 recommendations in the DoA Report were made to the CE Office. He considered that HC was an appropriate forum to discuss the issues raised in the DoA Report.

181. Mr IP Kwok-him said that he would not object to the proposal for holding a special HC meeting to discuss issues relating to the hotel accommodation arrangements for the CE's duty visits outside Hong Kong.

182. Mr Abraham SHEK said that he objected to the proposal for discussing the matter at a HC meeting.

183. In response to Dr LAM Tai-fai and Mrs Sophie LEUNG, the Chairman said that should Members agree that the matter be discussed by HC, she would further seek Members' view on the timing for discussion.

184. Mr IP Kwok-him requested the Chairman to suspend the meeting for a few minutes to enable Members belonging to different political parties or groupings to discuss the proposals among themselves.

*(The meeting was suspended at 8:34 pm and resumed at 8:45 pm.)*

185. Mr IP Kwok-him clarified that after deliberations, most Members belonging to the pro-establishment camp were of the view that the matter should be discussed by the relevant Panel.

Action

186. The Chairman said that as Members had different views on whether the matter should be discussed by HC or the relevant Panel(s), she would put the proposals to vote. She first put to vote Mr KAM Nai-wai's proposal that the matter be discussed by HC.

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, Mr Frederick FUNG, Ms Audrey EU, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN and Mr WONG Yuk-man.

(17 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Dr Samson TAM.

(22 Members)

187. The Chairman declared that 17 Members voted for and 22 Members voted against the proposal and no Member abstained. Mr KAM Nai-wai's proposal was not supported.

188. The Chairman then invited Members' view on the most appropriate Panel(s) to take up the matter.

189. Dr Philip WONG suggested that the EDEV Panel and the CI Panel should convene a joint meeting to discuss the issues raised in the DoA Report.

190. Mr Ronny TONG suggested that the matter be discussed by the Panel on Constitutional Affairs ("CA Panel") having regard to its large membership size.

191. The Chairman said that regardless of Members' decision on which Panel should follow up on the matter, all Members should be invited to attend the relevant meeting.

Action

192. Mr TAM Yiu-chung, Chairman of the CA Panel, said that the matter did not fall within the purview of the CA Panel. Hence, he did not consider it appropriate to refer the matter to the CA Panel.

193. Dr Margaret NG said that should the matter be referred to the relevant Panel(s), non-Panel Members could not vote on any motion moved at the meeting. She did not consider this an appropriate arrangement as the matter was of concern to all Members.

194. Mr James TO proposed that the matter be discussed jointly by the EDEV Panel, the CI Panel and the CA Panel.

195. Having regard to Members' diverse views, the Chairman put to vote the proposals raised at the meeting one by one. She first put to vote Mr James TO's proposal that the EDEV Panel, the CI Panel and the CA Panel should convene a joint meeting to discuss issues relating to the hotel accommodation arrangements for the CE's duty visits outside Hong Kong.

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, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN and Mr WONG Yuk-man.  
(18 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Dr Samson TAM.  
(22 Members)

196. The Chairman declared that 18 Members voted for and 22 Members voted against the proposal and no Member abstained. Mr James TO's proposal was not supported.

Action

197. The Chairman then put to vote Ms Audrey EU's proposal that the EDEV Panel and the CI Panel should convene a joint meeting to discuss issues relating to the hotel accommodation arrangements for the CE's duty visits outside Hong Kong.

The following Members voted in favour of the proposal:

Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kam-lam, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Emily LAU, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Dr Joseph LEE, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr Paul CHAN, Dr Priscilla LEUNG, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Dr Samson TAM, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN and Mr WONG Yuk-man.

(36 Members)

The following Members voted against the proposal:

Mrs Sophie LEUNG, Dr LAM Tai-fai and Mrs Regina IP.

(3 Members)

The following Member abstained:

Mr Jeffrey LAM

(1 Member)

198. The Chairman declared that 36 Members voted for and three Members voted against the proposal and one Member abstained. Ms Audrey EU's proposal was supported.

199. There being no other business, the meeting ended at 8:55 pm.