

立法會
Legislative Council

LC Paper No. CB(2)127/17-18

Ref : CB2/H/5/17

House Committee of the Legislative Council

**Minutes of the 2nd meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 20 October 2017**

Members present :

Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon Dennis KWOK Wing-hang (Deputy Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP

Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho

Member absent :

Hon Holden CHOW Ho-ding

Clerk in attendance :

Miss Flora TAI

Clerk to the House Committee

Staff in attendance :

Mr Kenneth CHEN, SBS	Secretary General
Ms Connie FUNG	Legal Adviser
Miss Odelia LEUNG	Deputy Secretary General
Ms Anita SIT	Assistant Secretary General 1
Ms Dora WAI	Assistant Secretary General 3
Mr Matthew LOO	Assistant Secretary General 4
Mr Timothy TSO	Senior Assistant Legal Adviser 1
Mr YICK Wing-kin	Senior Assistant Legal Adviser 2
Mr Kelvin LEE	Senior Assistant Legal Adviser 3
Ms Amy YU	Principal Council Secretary 1
Ms Hallie CHAN	Head (Public Information)
Ms Alice LEUNG	Chief Council Secretary (2)6
Mr Alvin CHUI	Assistant Legal Adviser 3
Ms Wendy KAN	Assistant Legal Adviser 6
Mr Cliff IP	Assistant Legal Adviser 8
Miss Evelyn LEE	Assistant Legal Adviser 10
Mr Richard WONG	Senior Council Secretary (2)6
Ms Jasmine TAM	Senior Council Secretary (2)8
Miss Connie AU	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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Joint letter from 22 Members to the Chairman

Mr Charles MOK said that he and another 21 Members had issued a joint letter to the Chairman of the House Committee ("HC") requesting HC to discuss, under "Any Other Business" ("AOB") at this meeting, the impact of the new arrangement to be adopted by the Chairman of the Finance Committee ("FC") in scheduling FC meetings ("the new arrangement") on the time at which HC meetings might be resumed if necessary to deal with the unfinished business on the HC's agenda after FC meetings. In their view, the new arrangement might give rise to a possible need to amend Rule 20(e) of the House Rules ("HR") in respect of the arrangement for resumption of HC meetings. However, their request had been turned down by the HC Chairman. Mr MOK stressed that as the FC Chairman had directed that the new arrangement would be adopted for scheduling FC meetings starting from the meeting on 27 October 2017 and such arrangement would have significant impact on the operation of HC, there was urgency for HC to discuss the matter at this meeting. He hoped that the Chairman of HC would reconsider allowing the matter to be discussed under "AOB" at this meeting in accordance with HR 20(f).

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2. The Chairman said that as explained in her reply letter to the 22 Members, since their request was made after the deadline for proposing agenda items for this meeting, unless these Members could put forward sufficient justifications that warranted the discussion of the matter raised at this meeting, she considered that the matter could be discussed more suitably at the next HC meeting so that Members would have sufficient time to prepare for the discussion. The Chairman further explained that under HR 20(e), when an HC meeting and an FC meeting were scheduled to be held in the same afternoon, the HC meeting might, if necessary, be suspended at such time when the FC meeting was scheduled to begin and resumed to deal with the unfinished business on the HC's agenda after the FC meeting. Given that the same practice would be followed after the implementation of the new arrangement, she was not convinced that the matter raised by the 22 Members must be discussed at this meeting. She was, however, prepared to include the proposal to discuss the matter in the agenda of the next HC meeting if these Members so requested.

3. Ms Tanya CHAN, Mr Jeremy TAM, Mr Kenneth LEUNG, Mr KWONG Chun-yu, Ms Claudia MO, Mr James TO and Mr HUI Chi-fung considered that given the urgency of the matter, the HC Chairman should allow the matter to be discussed under "AOB" at this meeting. Ms Tanya CHAN pointed out that at present, if multiple two-hour FC meetings were scheduled for the same afternoon, an HC meeting suspended under HR 20(e) would be resumed after the first two-hour FC meeting. She and Mr James TO stressed that as the FC Chairman might schedule one single meeting lasting for four hours or more for the same agenda on the same day under the new arrangement, and such arrangement would be adopted for scheduling FC meetings starting from the meeting on 27 October 2017, it would have a direct impact on the operation of HR 20(e) and there was an imminent need for HC to discuss the future arrangement for the resumption of HC meetings. Mr Kenneth LEUNG said that the request of the 22 Members was raised on 19 October 2017, after the deadline for proposing agenda items for this HC meeting, because the note on FC Chairman's direction regarding the new arrangement was issued on that day. He also questioned whether there had been any formal or informal communication between the HC Chairman and the FC Chairman on the new arrangement and whether the HC Chairman was aware that such arrangement would be in conflict with HR 20(e). Mr HUI Chi-fung commented that it was unreasonable and an abuse of power for the HC Chairman not to allow Members to discuss the matter at this meeting.

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4. The Chairman said that she noted that the FC Chairman had invited Members to attend an informal meeting held on 17 October 2017 to discuss with them his direction regarding the new arrangement. She reiterated that in deciding whether to accede to the request of the 22 Members, she had made reference to the established practice of having regard to whether there was urgency for the matter to be discussed at this meeting and whether sufficient notice could be given to all HC Members that the relevant discussion would be held. After taking into account the arguments put forward by the 22 Members in their letter, she was of the view that there was no absolute urgency to discuss the matter at this meeting. She stressed that the decision of a committee chairman on a point of order was final under Rule 44 of the Rules of Procedure ("RoP"). While she was willing to discuss with Members after the meeting should they have any views on her decision, she considered that the meeting should proceed to deal with the business on the agenda. Should any Members wish to discuss the matter at the next HC meeting, they might make a request by 5:00 pm on 24 October 2017.

I. Confirmation of minutes of meeting

Minutes of 1st meeting held on 13 October 2017

(LC Paper No. CB(2)70/17-18)

5. The minutes were confirmed.

II. Matters arising

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

6. The Chairman said that she had relayed to the Chief Secretary for Administration ("CS") Members' request for him to arrange meetings with Members from different political parties and groupings as soon as possible. CS had agreed to follow up.

III. Business arising from previous Council meetings

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

(i) Inland Revenue (Amendment) (No. 5) Bill 2017
(LC Paper No. LS5/17-18)

7. At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the report prepared by the Legal Service Division ("LSD") on the Bill.

8. Mr James TO and Mr WU Chi-wai considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Mr James TO and Mr WU Chi-wai agreed to join the proposed Bills Committee.

(ii) Supplementary Appropriation (2016-2017) Bill
(LC Paper No. LS6/17-18)

9. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the Bill.

10. Members considered it not necessary to form a Bills Committee to study the Bill and did not raise objection to the resumption of the Second Reading debate on the Bill.

(b) Legal Service Division report on subsidiary legislation and non-legislative instrument gazetted on 13 October 2017
(LC Paper No. LS3/17-18)

11. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on six items of subsidiary legislation (i.e. L.N. 165 to L.N. 170) and one item of non-legislative instrument (i.e. The Seventh Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences (S.S. No. 5 to Gazette No. 41/2017) ("the Seventh Technical Memorandum")) which were gazetted on 13 October 2017 and tabled in Council on 18 October 2017.

12. Mr Andrew WAN considered it necessary to form a subcommittee to study the Waterworks (Amendment) (No. 2) Regulation 2017 (L.N. 165) in detail. Members agreed. Dr Helena WONG and Mr Andrew WAN agreed to join the proposed subcommittee.

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13. Mr HUI Chi-fung considered it necessary to form a subcommittee to study the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2017 (L.N. 166) in detail. Members agreed. Mr CHAN Hak-kan and Mr HUI Chi-fung agreed to join the proposed subcommittee.

14. Mr James TO considered it necessary to form a subcommittee to study the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2017 (L.N. 167) in detail. Members agreed. Mr James TO agreed to join the proposed subcommittee.

15. Mr WU Chi-wai, Mr Charles MOK and Mr HUI Chi-fung considered it necessary to form a subcommittee to study in detail the Telecommunications (Level of Spectrum Utilization Fee) (Fixed and Other Links) Regulation (L.N. 168) and the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2017 (L.N. 169). Members agreed. Mr WU Chi-wai, Mr Charles MOK and Mr HUI Chi-fung agreed to join the subcommittee.

16. Ms Tanya CHAN considered it necessary to form a subcommittee to study the Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2017 (L.N. 170) in detail. Members agreed. The following Members agreed to join the subcommittee: Mr CHAN Chi-chuen, Mr LEUNG Che-cheung, Dr Helena WONG and Ms Tanya CHAN.

17. Mr Kenneth LEUNG and Ms Tanya CHAN considered it necessary to form a subcommittee to study the Seventh Technical Memorandum in detail. Members agreed. The following Members agreed to join the subcommittee: Mr CHAN Hak-kan, Mr WU Chi-wai, Mr Kenneth LEUNG, Mr CHU Hoi-dick and Ms Tanya CHAN.

18. The Chairman reminded Members that the deadline for amending the above items of subsidiary legislation and non-legislative instrument would be the Council meeting of 15 November 2017, or that of 6 December 2017 if extended by a resolution of the Council.

IV. Business for the Council meeting of 1 November 2017

(a) **Questions**

(LC Paper No. CB(3)44/17-18)

19. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the meeting.

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

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

(c) **Government motion**

Proposed resolution to be moved by the Secretary for Constitutional and Mainland Affairs under section 8 of the District Councils Ordinance (Cap. 547)

(LC Paper No. CB(3)42/17-18)

(LC Paper No. LS4/17-18)

21. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the above proposed resolution.

22. Mr LAU Kwok-fan considered it necessary to form a subcommittee to study the proposed resolution in detail. Members agreed. The following Members agreed to join the subcommittee: Mr LEUNG Che-cheung, Dr CHIANG Lai-wan, Ms Tanya CHAN, Mr LAU Kwok-fan and Mr Jeremy TAM.

23. The Chairman informed Members that in line with the established practice and the arrangement agreed with the Administration, the Administration would be requested to withdraw its notice for moving the proposed resolution so as to allow sufficient time for the subcommittee to carry out its scrutiny work.

(d) **Members' motions**

24. The Chairman said that as the Council could not deal with Members' motions at its meeting of 18 October 2017, the Members' motions which had been scheduled for debate at previous Council meetings would be rescheduled to the following Council meetings.

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They included the two Members' motions originally scheduled to be dealt with at the Council meeting of 1 November 2017, i.e. the motion on "Stimulating internal demand and opening up new visitor sources" to be moved by Mr SHIU Ka-fai and the motion on "Setting up an information database on the conduct of police officers" to be moved by Dr CHENG Chung-tai. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above two motions would be Tuesday, 24 October 2017.

V. Position on Bills Committees and subcommittees
(*LC Paper No. CB(2)71/17-18*)

25. The Chairman said that as at 19 October 2017, there were 15 Bills Committees (three of which would need to work beyond three months since their commencement), 13 subcommittees under HC and four subcommittees on policy issues under Panels in action. Ten subcommittees on policy issues were on the waiting list.

VI. Election of a Member for appointment to fill a vacancy in the membership of the Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the motion to censure Hon Holden CHOW Ho-ding
(*LC Paper No. CB(1)63/17-18*)

26. The Chairman said that Members were invited vide LC Paper No. CB(1)1459/16-17 issued on 6 October 2017 to make nominations for the election of a Member for appointment to fill a vacancy in the membership of the Investigation Committee established under RoP 49B(2A) in respect of the motion to censure Hon Holden CHOW Ho-ding. Only one nomination was received by the nomination deadline (i.e. 12:00 midnight of Monday, 16 October 2017) and the nominee was Mr Dennis KWOK. In accordance with the election procedure endorsed by HC, the Chairman declared Mr Dennis KWOK elected as a member of the Investigation Committee.

VII. Request of Hon HUI Chi-fung to seek the House Committee's recommendation for an adjournment debate under Rule 16(4) of the Rules of Procedure at the Council meeting of 25 October 2017 on issues relating to the discussion to be held by the Standing Committee of the National People's Congress on adding the National Anthem Law of the People's Republic of China to the list of national laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region

(LC Paper No. CB(2)79/17-18(01))

27. At the invitation of the Chairman, Mr HUI Chi-fung said that the impending enactment of a national anthem law in Hong Kong had aroused great controversy within the community. Concerns had been expressed about whether the provisions concerning criminal penalty under the law, if any, would have retrospective effect, and whether the freedoms of speech, expression and "secondary creation" would be undermined. As the Secretary for Constitutional and Mainland Affairs had indicated that the National Anthem Law of the People's Republic of China ("the National Anthem Law") would be implemented in Hong Kong through local legislation after it had been added to the list of national laws in Annex III to the Basic Law ("BL") of the Hong Kong Special Administrative Region ("HKSAR"), he considered it necessary for the Legislative Council ("LegCo") to hold a debate on the matter as soon as possible, so as to enable the Standing Committee of the National People's Congress ("NPCSC") to understand the views and worries of Members before the matter was discussed at its meeting to be held from 30 October to 4 November 2017. He appealed for Members' support for the holding of the proposed adjournment debate at the Council meeting of 25 October 2017.

28. Dr Priscilla LEUNG said that as NPCSC had yet to formally announce its plan to add the National Anthem Law to the list of national laws in Annex III to BL, any debate on the matter would merely be based on speculations. She therefore considered it inappropriate for LegCo to hold the proposed debate at the present stage. Furthermore, if the National Anthem Law was indeed added to the list of national laws in Annex III to BL, LegCo should discuss how to follow up on the relevant work through local legislation, and not whether the National Anthem Law should be implemented in Hong Kong. In her view, the need for the enactment of a national anthem law in Hong Kong arose mainly from the repeated incidents of some local football fans booing the national anthem at football games held in Hong Kong.

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29. Mr CHAN Hak-kan said that many Hong Kong people were supportive of the National Anthem Law and hoped that the HKSAR Government would proceed with the enactment of the relevant local legislation as soon as possible. However, as details of the proposal for local legislation were not available yet, it was premature for LegCo to discuss the matter at the present stage. Given that issues relating to the implementation of the National Anthem Law in Hong Kong fell under the purview of the Panel on Constitutional Affairs, he considered it more appropriate to discuss the relevant issues at the future meetings of the Panel instead of holding the proposed adjournment debate in Council.

30. Mr WU Chi-wai said that the holding of an adjournment debate in Council, which was subject to a time limit, would provide an opportunity for Members to express their views on issues of concern to the Hong Kong public. Since the National Anthem Law had yet to be added to the list of national laws in Annex III to BL and the proposal for local legislation had not been formulated yet, he considered it necessary and appropriate for Members to voice their worries and concerns in Council at the present stage about, among others, whether the relevant local legislation would have retrospective effect and its impact on freedom of creation.

31. Ms Claudia MO said that the Central Authorities and the HKSAR Government should consider why some Hong Kong people booed the national anthem, and not how to punish them. In her view, the proposal to add the National Anthem Law to the list of national laws in Annex III to BL would not solve the current problem of the lack of respect for the national anthem shown by some Hong Kong people. She therefore considered it necessary to convey to the Central Authorities why such a problem existed in Hong Kong before the proposal was discussed by NPCSC.

32. Mr WONG Kwok-kin said that Members belonging to the Hong Kong Federation of Trade Unions did not support the holding of the proposed adjournment debate, which, in their view, would be a waste of the Council meeting time. Mr WONG further pointed out that as local legislation would need to be enacted after the National Anthem Law was added to the list of national laws in Appendix III to BL, Members would have ample opportunities to express their views during the scrutiny of the relevant proposal for local legislation. Members might also propose to discuss the related issues at meetings of the relevant Panel(s) if they so wished.

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33. Mr CHAN Chi-chuen expressed support for Mr HUI Chi-fung's proposal. He considered it absurd for Dr Priscilla LEUNG to argue that the need for the enactment of the National Anthem Law arose mainly from the repeated incidents of some Hong Kong football fans booing the national anthem at football games held in Hong Kong, adding that the National Anthem Law was a national law which would be applied to all places within the territory of China. In his view, it was necessary for LegCo to hold the proposed adjournment debate before the National Anthem Law was added to the list of national laws in Annex III to BL, so as to enable Members to express their concerns about, among others, whether a retrospective date would be set for the enforcement of the relevant local legislation to be enacted.

34. Ms Tanya CHAN said that RoP 16(4) provided that a Member might, at the conclusion of all the business on the Agenda, move a motion for the adjournment of the Council for the purpose of raising any issue concerning public interest, with a view to eliciting a reply from the designated public officer. In her view, the matter raised by Mr HUI Chi-fung which was clearly concerned with public interest warranted a debate in Council, and whether or not the matter should be discussed by the relevant Panel(s) was a separate issue. Ms CHAN further said that as many provisions in the National Anthem Law were inconsistent with BL, it was necessary for Members to discuss the relevant issues. She supported the holding of the proposed adjournment debate.

35. Dr Helena WONG expressed support for Mr HUI Chi-fung's proposal. She pointed out that as it was expected that NPCSC would endorse the proposal to add the National Anthem Law to the list of national laws in Annex III to BL at its meeting to be held from 30 October to 4 November 2017, there was urgency to hold the proposed adjournment debate at the Council meeting of 25 October 2017 such that NPCSC might take into account Members' views in considering the proposal.

36. Mr Kenneth LEUNG said that he supported the holding of the proposed adjournment debate, the duration of which was limited under the relevant rules of RoP and HR. Regarding the concern about whether local legislation for the National Anthem Law, if enacted, would be applied retrospectively, it was his understanding that no criminal law being implemented in common law jurisdictions had retrospective effect. As the implementation of the National Anthem Law in Hong Kong would impact upon each and every Hong Kong people, he considered it worthwhile for Members to discuss the relevant issues in Council.

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37. Dr KWOK Ka-ki considered that the implementation of the National Anthem Law in Hong Kong would have far-reaching implications on Hong Kong people, especially if the relevant local legislation had retrospective effect. Given the gravity of the matter, it was necessary for LegCo to discuss the matter as early as practicable. In his view, Members of the pro-establishment camp should not forestall the holding of the proposed adjournment debate as it would provide an opportunity for them to speak on the National Anthem Law in the Council.

38. Dr Fernando CHEUNG expressed support for holding an adjournment debate on the matter raised by Mr HUI Chi-fung, which was concerned with public interest, at the Council meeting of 25 October 2017. As NPCSC was considering adding the National Anthem Law to the list of national laws in Annex III to BL and the National Anthem Law would be implemented in Hong Kong through local legislation if it was so added to BL, he considered it an opportune time for Members to express their views and concerns on the relevant issues in Council before a decision was taken by NPCSC.

39. Mr Steven HO said that while he also wished to discuss issues relating to the National Anthem Law, he considered it inappropriate to do so through the holding of the proposed adjournment debate as it was in effect jumping the queue for debate slots. In his view, the matter should be discussed by the relevant Panel(s) after NPCSC had formally announced its plan to add the National Anthem Law to the list of national laws in Annex III to BL and a concrete proposal for local legislation became available.

40. Mr KWONG Chun-yu said that he considered it appropriate to hold the proposed adjournment debate under RoP 16(4) as the matter raised by Mr HUI Chi-fung was clearly concerned with public interest. Mr KWONG stressed that given the wide public concern about whether the relevant local legislation for the National Anthem Law, if enacted, would have retrospective effect and the significant public interest at stake, it was incumbent upon LegCo to elicit a response from the HKSAR Government to clear the doubts surrounding the matter.

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41. Mr LAU Kwok-fan said that as the National Anthem Law had already been promulgated, it should be for the HKSAR Government and LegCo, instead of NPCSC, to follow up on local legislation after the National Anthem Law had been added to the list of national laws in Annex III to BL. He therefore did not consider it necessary or appropriate to discuss the matter at the present stage. In his view, it was more appropriate for Members to express their views and concerns, if any, during the scrutiny of the relevant proposal for local legislation to be submitted by the HKSAR Government.

42. Mr CHU Hoi-dick said that once the National Anthem Law had been promulgated, there were suggestions made by some Members of the pro-establishment camp that the relevant local legislation, if enacted, should be retrospective. He also heard that photos were taken at local football games to prepare for possible prosecution actions in future. Given these political gestures and the fact that the addition of the National Anthem Law to the list of national laws in Annex III to BL was a highly controversial subject, it was necessary for LegCo to discuss the matter as early as practicable.

43. Mr HUI Chi-fung said that as the National Anthem Law stipulated that the Law sought to, among others, promote the spirit of patriotism and that the national anthem must not be performed or sung in a way damaging to the anthem's dignity, there were worries among the Hong Kong public that their freedom of speech and expression would be infringed upon if the National Anthem Law was implemented in Hong Kong. He therefore considered it incumbent upon LegCo, being the local legislature, to voice the public worries while the matter was being considered by NPCSC. He hoped that Members would support the holding of the proposed adjournment debate.

44. The Chairman put to vote the proposal of Mr HUI Chi-fung to move a motion for adjournment, in addition to two Members' motions without legislative effect, under RoP 16(4) at the Council meeting of 25 October 2017 for the purpose of debating issues relating to the discussion to be held by NPCSC on adding the National Anthem Law to the list of national laws in Annex III to BL. Mr Steven HO requested a division.

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The following Members voted in favour of the proposal:

Mr James TO, Mr LEUNG Yiu-chung, Prof Joseph LEE, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr KWONG Chun-yu and Mr Jeremy TAM.

(22 Members)

The following Members voted against the proposal:

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Mr Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung and Mr LAU Kwok-fan.

(36 Members)

45. The Chairman declared that 22 Members voted for and 36 Members voted against the proposal, and no Member abstained from voting. The Chairman declared that the proposal was not supported.

VIII. Any other business

Proposal of Hon Claudia MO to seek the House Committee's agreement for asking an urgent oral question at the Council meeting of 25 October 2017 on the incident concerning Mr Benedict ROGERS, Deputy Chair of the UK Conservative Party Human Rights Commission, being refused entry into Hong Kong

(LC Paper No. CB(2)87/17-18(01))

46. The Chairman informed Members that the Secretariat had received a letter from Ms Claudia MO on 16 October 2017 requesting HC to

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discuss at this meeting Ms MO's proposal to seek HC's agreement for asking an urgent oral question at the Council meeting of 25 October 2017 on the incident concerning Mr Benedict ROGERS, Deputy Chair of the UK Conservative Party Human Rights Commission, being refused entry into Hong Kong. The Chairman further said that according to HR 10, to assist the President in considering requests for asking urgent questions without the required notice, Members should, where practicable, first seek the agreement of HC before submitting their request for asking an urgent question. However, notwithstanding the requirements stipulated under HR 10, if Ms MO considered that her proposed question was of an urgent character, Ms MO should, in accordance with RoP 24(4), submit it to the President for him to consider whether to permit Ms MO to ask the question at the Council meeting of 18 October 2017, which was the earliest Council meeting at which oral questions could be asked. Therefore, she had instructed the Secretariat to explain this to Ms MO. She, however, noted that Ms MO did not submit a request for asking an oral question at the Council meeting of 18 October 2017 and instead, sent another letter in the afternoon of 18 October 2017 requesting HC to discuss her proposal at this meeting. The Chairman advised that after taking into account the relevant requirements of HR and Ms MO's proposal that the proposed question be asked at the Council meeting of 25 October 2017, she agreed to put Ms MO's proposal on the agenda for this meeting under "AOB" in accordance with the past practices in handling similar requests.

47. At the invitation the Chairman, Ms Claudia MO explained that she thought that it would be more appropriate for her proposal to be first discussed by HC. She further said that the incident concerning Mr Benedict ROGERS being refused entry into Hong Kong ("the incident concerned") had aroused public concerns about whether the principle of "one country, two systems" had been eroded and turned into "one country, one system". She noted from the media reports that the Ministry of Foreign Affairs of the People's Republic of China ("the Ministry of Foreign Affairs") had commented that the incident concerned was a matter of foreign affairs. Ms MO queried whether the HKSAR Government had given up its power to exercise immigration controls as provided in BL 154. Ms MO therefore considered that there was urgency for her to ask the proposed question at the Council meeting of 25 October 2017.

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48. Dr Elizabeth QUAT said that she opposed Ms Claudia MO's proposal. She considered that the incident concerned was an individual case and she did not see any urgency in asking the proposed question. In her view, Ms Claudia MO should follow the allocation system for the asking of questions at Council meetings.

49. Mr CHAN Chi-chuen said that the incident concerned was not a personal matter of Mr Benedict ROGERS. It was the principle of "one country, two systems" that was called into question and this would have a significant impact on Hong Kong. He considered that the proposed question should be asked at the Council meeting of 25 October 2017 so as to elicit a response from the Administration. He added that he had registered for obtaining a question slot for asking an oral question on the incident concerned.

50. Mr James TO pointed out that the incident concerned would have profound implications on Hong Kong's image as a financial centre and an international city. He was concerned that it had not only aroused the concern of the international community, but might have been escalated into a diplomatic dispute between UK and China. Noting that President Xi Jinping had mentioned in his recent speech the importance of having "an organic integration between the Central People's Government's overall jurisdiction over Hong Kong and the high degree of autonomy of Hong Kong", he wondered if the incident concerned was a reflection of such integration.

51. Both Mr LUK Chung-hung and Mr WONG Kwok-kin did not see any urgency in asking the proposed question and considered that the incident concerned was an individual case. Mr LUK said that if Ms Claudia MO would like to ask the proposed question, she should follow the allocation system for the asking of questions at Council meetings. Mr WONG pointed out that the incident concerned was a diplomatic matter and according to BL, the Central People's Government should be responsible for the foreign affairs and national defence relating to HKSAR. As such, Mr WONG considered that LegCo did not have a role to play and those Members who wished to express their views on the incident concerned should do so at platforms other than LegCo.

Action

52. Mrs Regina IP said that not only was there no urgency in asking the proposed question, the proposed question, which had quoted media reports as the sources of information might violate RoP 25(1)(i) which stipulated that a question should not be asked whether statements in the press or of private individuals or private concerns were accurate.

53. Dr KWOK Ka-ki said that he supported Ms Claudia MO's proposal. In his view, the incident concerned had shattered the principle of "one country, two systems" as BL provided that the HKSAR Government was vested with the power to exercise immigration controls. He doubted if foreign investors would still be attracted to Hong Kong if the principle of "one country, two systems" could not be upheld. The Administration should therefore make clarifications on the incident concerned as soon as possible.

54. Mr Alvin YEUNG said that he supported Ms Claudia MO's proposal which, in his view, was an act that demonstrated her "love for the country and Hong Kong" because the asking of the proposed question would provide an opportunity for the Administration to address the various concerns about the incident concerned and clarify whether there were any misunderstandings surrounding it.

55. Mr Kenneth LEUNG considered that there was a need to ask the proposed question as the Administration should explain the reasons for refusing the entry of Mr Benedict ROGERS into Hong Kong. Furthermore, the Administration should also clarify to the public the delineation between "matters relating to immigration controls" and "matters relating to foreign affairs" as the former was the responsibility of the HKSAR Government while the Central People's Government was responsible for the latter under BL.

56. Mr Jeremy TAM expressed similar view with Mr Kenneth LEUNG. He considered it incumbent upon the Administration to clarify the distinction between the affairs which the HKSAR Government administered on its own and those which were relating to foreign affairs and national defence. He therefore supported Ms Claudia MO's proposal.

57. At 3:34 pm, Mr James TO pointed out that it was already past 3:30 pm, the scheduled starting time of the FC meeting. He drew the Chairman's attention that according to HR 20(e), the HC meeting should be suspended at such time when the FC meeting was scheduled to begin and resumed to deal with the unfinished business on the agenda after the FC meeting.

Action

58. In response, the Chairman said that she had already secured the consent of the FC Chairman for the HC meeting to continue for not more than 15 minutes beyond 3:30 pm, and planned to make the announcement after one more Member finished speaking on Ms Claudia MO's proposal. She added that there were occasions in the past where such an arrangement was made in order to allow HC to conclude its business on the agenda. She then invited other Members to speak.

59. Mr CHU Hoi-dick said that the incident of Mr Benedict ROGERS was different from other similar past cases because the Ministry of Foreign Affairs had made a comment on this incident. He therefore wondered whether there were two "blacklists" of people who were to be refused entry into Hong Kong, one compiled by the Immigration Department and the other issued by the Central Authorities. He considered it necessary for the Administration to make a clarification, and therefore supported Ms Claudia MO's proposal.

60. Both Ms Tanya CHAN and Dr Fernando CHEUNG cited BL 154 and pointed out that the HKSAR Government was vested with the power to exercise immigration controls. Ms CHAN considered that the remarks made by the Ministry of Foreign Affairs had amounted to interfering in the internal affairs of the HKSAR Government. It was therefore necessary for the Administration to clarify whether the incident concerned was a matter relating to "foreign affairs" or belonged to the internal affairs of HKSAR. Dr CHEUNG said that he supported Ms Claudia MO's proposal and considered that the Administration should immediately make clarification as to who, under what circumstances and for what reasons, would make such classifications.

61. Ms Claudia MO considered that following the remarks made by the Ministry of Foreign Affairs that the incident concerned was a matter of "foreign affairs", Hong Kong people could not help but worry that the understanding of BL might be twisted arbitrarily. She was worried that Hong Kong people might lose the rights and freedoms currently being protected under BL.

62. Mr James TO requested the Chairman to put to vote the question as to whether HC agreed to Ms Claudia MO's proposal. As it was already 3:40 pm, the Chairman directed that the HC meeting be suspended and resumed immediately after the FC meeting to proceed to the vote.

(The meeting was suspended at 3:40 pm and resumed at 5:32 pm.)

Action

63. The Chairman put to vote the proposal of Ms Claudia MO to seek HC's agreement for asking an urgent oral question at the Council meeting of 25 October 2017 on the incident concerning Mr Benedict ROGERS, Deputy Chair of the UK Conservative Party Human Rights Commission, being refused entry into Hong Kong. Ms Tanya CHAN requested a division.

The following Members voted in favour of the proposal:

Mr James TO, Prof Joseph LEE, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Dr Pierre CHAN, Ms Tanya CHAN, Mr HUI Chi-fung, Mr KWONG Chun-yu and Mr Jeremy TAM.

(19 Members)

The following Members voted against the proposal:

Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Michael TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan and Mr Kenneth LAU.

(34 Members)

64. The Chairman declared that 19 Members voted for and 34 Members voted against the proposal and no Member abstained from voting. The Chairman declared that the proposal was not supported.

65. There being no other business, the meeting ended at 5:38 pm.