

立法會
Legislative Council

LC Paper No. CB(2)1591/17-18

Ref : CB2/H/5/17

House Committee of the Legislative Council

**Minutes of the 23rd meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 25 May 2018**

Members present :

Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon Dennis KWOK Wing-hang (Deputy Chairman)
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 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 LEUNG Che-cheung, SBS, MH, JP
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 Holden CHOW Ho-ding
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
Hon Gary FAN Kwok-wai
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Members absent :

Hon James TO Kun-sun
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon CHAN Han-pan, JP
Hon Kenneth LEUNG
Hon AU Nok-hin

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 Hallie CHAN	Head (Public Information)
Ms Alice LEUNG	Chief Council Secretary (2)6
Ms Sophie LAU	Chief Council Secretary (4)2
Miss Joyce CHAN	Assistant Legal Adviser 1
Miss Rachel DAI	Assistant Legal Adviser 2
Mr Bonny LOO	Assistant Legal Adviser 4
Ms Vanessa CHENG	Assistant Legal Adviser 5
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
Mr Clement HAU	Council Secretary (2)7
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

Action

I. Confirmation of minutes of meeting

Minutes of 22nd meeting held on 18 May 2018

(LC Paper No. CB(2)1435/17-18)

The minutes were confirmed.

II. Matters arising

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

Funding proposals examined by the Finance Committee and its Subcommittees

2. The Chairman said that the Chief Secretary for Administration ("CS") had expressed sincere gratitude on behalf of the Administration to Members for their cooperation in recent months at meetings of the Finance Committee ("FC") and its Subcommittees leading to the approval of a number of funding proposals to increase manpower, improve people's livelihood and create jobs, thus creating favourable conditions for the development of the society and driving Hong Kong to move forward.

3. Mr Jeremy TAM said that while FC and its Subcommittees had made good progress in examining the funding proposals recently, he noted that amongst the funding proposals submitted to the Public Works Subcommittee for examination at its meeting on 28 May 2018, a few of them, such as the construction of music fountains at Kwun Tong Promenade under the Signature Project Scheme for consideration, in his view, were controversial. He considered that if the Administration had indeed wished to "resolve the simple issues before the difficult ones" to facilitate the smooth examination of funding proposals, the Administration should give priority to those non-controversial items in setting the order of agenda items for the meetings of FC and its Subcommittees. To facilitate Members' consideration of the funding proposals, the Administration should also provide the agenda items for future meetings of FC and its Subcommittees in a timely manner. Mr TAM hoped the Chairman would relay his views to CS.

4. The Chairman said that she would relay Mr Jeremy TAM's views to CS at their next meeting. However, Members might have different views on whether the funding proposals submitted by the Administration were controversial or not.

Action

The Administration's deployment of civil servants at the Legislative Council ("LegCo") Complex to "observe" the movements of Members

5. Dr KWOK Ka-ki said that at the last House Committee ("HC") meeting, he had expressed his hope that CS would attend an HC meeting to discuss issues relating to the Administration's deployment of "paparazzi" to "observe" the movements of Members at the LegCo Complex. He enquired about the response from CS.

6. The Chairman responded that she had already relayed CS's response to Dr KWOK Ka-ki's request at the last HC meeting. As advised by CS, he did not consider it necessary for the matter to be discussed at an HC meeting. At her last meeting with CS, CS had made no further comments on the matter.

7. Dr KWOK Ka-ki said that he hoped that CS would advise what would be the appropriate platform for Members to discuss with CS the issues relating to the matter.

8. Noting that CS had made no further comments on the matter, Mr Gary FAN said that he hoped that CS would provide a written response to the request made by him at the last HC meeting regarding the provision of information on the bureaux and departments from which civil servants had been deployed to perform the duties of "monitoring" or "observing" the movements of Members in the LegCo Complex and the payroll cost involved in making such deployment. He asked the Chairman to relay his request to CS at her next meeting with CS.

9. The Chairman said that while she had already relayed to CS the views/requests expressed by Members at the last HC meeting regarding the Administration's deployment of civil servants at the LegCo Complex, she would relay to CS at their next meeting the various views/requests on the matter reiterated by Members at this meeting. She also suggested that Mr Gary FAN could consider following up his request for a written response from the Administration through other channels.

III. Business arising from previous Council meetings

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

Inland Revenue (Amendment) (No. 4) Bill 2018
(LC Paper No. LS59/17-18)

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

11. Dr KWOK Ka-ki considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Ms Starry LEE, Ms Alice MAK and Dr KWOK Ka-ki agreed to join the Bills Committee.

(b) Legal Service Division report on subsidiary legislation gazetted on 18 May 2018 and tabled in Council on 23 May 2018
(LC Paper No. LS61/17-18)

12. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the 24 items of subsidiary legislation (i.e. L.N. 83 to L.N. 106) which were gazetted on 18 May 2018 and tabled in Council on 23 May 2018.

13. Dr CHIANG Lai-wan considered it necessary to form a subcommittee to study the six Orders made under section 5(1) of the Public Bus Services Ordinance (Cap. 230) (i.e. L.N. 83 to L.N. 88) in detail. Members agreed. Dr CHIANG Lai-wan agreed to join the proposed subcommittee.

14. Mr Holden CHOW considered it necessary to form a subcommittee to study the Securities and Futures (Amendment) Ordinance 2016 (Commencement) Notice (L.N. 96), Securities and Futures (Open-ended Fund Companies) Rules (L.N. 97) and Securities and Futures (Open-ended Fund Companies) (Fees) Regulation (L.N. 98) in detail. Members agreed. Mr James TO (as advised by Mr WU Chi-wai) and Mr Holden CHOW agreed to join the proposed subcommittee.

15. Mr Holden CHOW considered it necessary to form a subcommittee to study the Securities and Futures (Professional Investor) (Amendment) Rules 2018 (L.N. 99) in detail. Members agreed. Mr James TO (as advised by Mr WU Chi-wai), Dr CHIANG Lai-wan and Mr Holden CHOW agreed to join the subcommittee.

Action

16. Mr Charles MOK considered it necessary to form a subcommittee to study the four items of subsidiary legislation made under the Telecommunications Ordinance (Cap. 106) (i.e. L.N. 103 to L.N. 106). Members agreed. Mr WU Chi-wai, Mr Charles MOK and Mr Alvin YEUNG agreed to join the subcommittee.

17. Members did not raise any questions on the other 10 items of subsidiary legislation (i.e. L.N. 89 to L.N. 95, and L.N. 100 to L.N. 102).

18. The Chairman reminded Members that the deadline for amending the above 24 items of subsidiary legislation would be the Council meeting of 20 June 2018, or that of 11 July 2018 if extended by a resolution of the Council.

IV. Further business for the Council meeting of 30 May 2018

Tabling of papers

Report No. 13/17-18 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments
(LC Paper No. CB(2)1446/17-18)

19. The Chairman said that the Report covered four items of subsidiary legislation and the period for amending them would expire at the Council meeting of 30 May 2018. No Member had indicated intention to speak on any of these items of subsidiary legislation.

V. Business for the Council meeting of 6 June 2018

(a) **Questions**
(LC Paper No. CB(3)621/17-18)

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

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

21. The Chairman said that HC would consider the United Nations Sanctions (Amendment) Bill 2018 at its meeting on 8 June 2018.

Action

(c) **Government motion**

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

(d) **Members' motions**

23. The Chairman said that two Members' motions without legislative effect which had stood over from previous Council meetings would be dealt with at the meeting.

Report of HC on Consideration of Subsidiary Legislation

24. The Chairman invited Members to note the list tabled at the meeting (LC Paper No. CB(3)627/17-18), which contained eight items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 6 June 2018. She reminded Members to indicate their intention by 5:00 pm on Tuesday, 29 May 2018, should they wish to speak on any of these items of subsidiary legislation.

VI. Reports of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill**

(LC Paper No. CB(4)1117/17-18)

25. At the invitation of the Chairman, Mrs Regina IP, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report ("the Report"). Mrs IP said that while some members of the Bills Committee supported the Bill, some other members of the Bills Committee had strong views against it. The Administration would not propose any amendments to the Bill, and the Bills Committee had decided not to move any of the proposed amendments to the Bill on behalf of members of the Bills Committee. She also advised that the Bills Committee supported the Administration's proposal to resume the Second Reading debate on the Bill at the Council meeting of 6 June 2018.

Action

26. Ms Tanya CHAN said that the Report, despite having a total of 178 paragraphs, had some omissions. The Report had not mentioned that some Members had made request for conducting a site visit to the Shek Kong Stabling Sidings, and the Administration had not made such arrangement. Besides, while the Report had mentioned that the Hong Kong Bar Association ("the Bar Association") had expressed grave concern over the constitutional and legal basis of the Bill, there was no elaboration on the arguments propounded by the Bar Association in its submissions. Also, due to the fact that the discussion time was very limited at the meetings of the Bills Committee, some members of the Bills Committee (including Members of the Civic Party) had raised their concerns and questions in writing, and the Administration had provided its responses in writing. However, such concerns and questions raised by members of the Bills Committee as well as the Administration's responses had not been adequately covered in the Report. Ms CHAN asked whether and how amendments could be made to the Report so that various views and concerns raised by members of the Bills Committee could be reflected more aptly. She added that for example, the written submissions of the Bar Association could be added to the Report as an appendix.

27. The Chairman said that as stated in the Report, the Bills Committee had held 17 meetings, i.e. 45 hours of duration in total, Members could appreciate that it was not possible to include all the deliberations of the Bills Committee in the Report. Apart from the Report, Members could also use other relevant information as reference materials to prepare for the debate when the Bill resumed its Second Reading debate. She further said that in accordance with the established practice, the Clerk to a Bills Committee would endeavour to prepare a comprehensive draft report of the Bills Committee concerned for the consideration of and clearance by the Chairman of the Bills Committee concerned before submission to HC. Given the controversies surrounding the Bill, the Chairman suggested that those members of the Bills Committee who considered that the Report had any omissions should write to the Clerk to the Bills Committee after this meeting. She then invited Mrs Regina IP and the Secretary General ("SG") to respond to Ms Tanya CHAN's queries.

28. Mrs Regina IP said that the Report had attempted to cover as many details of the deliberations of the Bills Committee as possible. As regards the Bar Association's concerns about the constitutional and legal basis of the Bill, which were shared by some members, the Report had

Action

covered the relevant issues from paragraphs 12 to 54. Regarding the questions raised by members of the Bills Committee in their letters, the Administration had already provided its written responses before the last meeting of the Bills Committee held on 7 May 2018. Should members of the Bills Committee remain dissatisfied with the Administration's responses, they might write to the Administration directly. Mrs IP added that the Administration had agreed to consider arranging a site visit to the Shek Kong Stabling Sidings, and therefore, Members might follow up with the Administration, though she did not consider that the request to visit the Shek Kong Stabling Sidings was related to the scrutiny of the Bill. In her view, the Report was already comprehensive enough.

29. At the invitation of the Chairman, SG said that in addition to the Report, minutes of meetings of the Bills Committee would be uploaded onto the LegCo website once available, while all relevant papers previously issued, including all written submissions, had already been uploaded onto the LegCo website.

30. The Deputy Chairman said that in respect of paragraph 21 of the Report concerning the grave concern expressed by the Bar Association about the constitutional and legal basis of the Bill, he considered that such concern should be further elaborated in the Report. Referring to paragraphs 25 and 33 of the Report, he pointed out that during the deliberations of the Bills Committee, some members of the Bills Committee including himself remained unconvinced of the Administration's views/positions on various constitutional and legal issues, including whether the Bill contravened Article 18 of the Basic Law ("BL"), whether BL 18 was engaged, whether any extrinsic materials were considered in the Administration's interpretation of BL 18, and whether the proportionality test could be applied in relation to the question of whether the Bill contravened certain provisions of BL. He also referred to paragraphs 40 and 42 of the Report and considered that there should be more elaboration on the arguments raised by him and some other members of the Bills Committee in support of their views as follows: that the Bill contravened BL, including BL 18 thereof, that the Bill should not be passed by LegCo, that the proportionality test could not be applied to certain provisions of BL including BL 1 and BL 18, and that the establishment of the West Kowloon Station ("WKS") Mainland Port Area ("MPA") contravened BL 80. The Deputy Chairman considered it necessary to amend the relevant paragraphs of the Report so that various views raised by individual members of the Bills Committee would be reflected in more detail in the Report. He added that paragraphs 169 and 170 concerning site visit should also be more detailed.

Action

31. In response to the Deputy Chairman's enquiry about how amendments could be made to the Report, the Chairman reiterated her suggestion that Members who wished to propose any amendments to the Report should write to the Clerk to the Bills Committee after this meeting, and Members' views raised at this meeting would also be reflected in the minutes of this meeting. She further said that she trusted that the Chairman of the Bills Committee would consider whether it was necessary to make any amendments to the Report before it was submitted to the Council.

32. Mr Gary FAN said that he did not agree with the Report and commented that while the Report had covered the Administration's views in detail, it failed to elaborate on the views and queries raised by various members of the Bills Committee. He cited as an example that he and many other members of the Bills Committee held the view that the Bill contravened BL 18, but paragraph 24 of the Report only detailed the Administration's explanation and views that BL 18 was not engaged, which might give the public a false impression that members of the Bills Committee had agreed to the Administration's position. Furthermore, the Report did not mention that when members of the Bills Committee were called upon to decide whether the Bills Committee agreed to take on the various amendments proposed to be moved to the Bill by individual members of the Bills Committee, members were given only about 10 seconds to vote on each question put. Mr FAN further said that he objected to the resumption of the Second Reading debate on the Bill at the Council meeting of 6 June 2018, given that the Administration had failed to convince him as well as some other members of the Bills Committee during the deliberations of the Bills Committee that the Bill did not contravene BL.

33. Dr Fernando CHEUNG criticized the Chairman of the Bills Committee for having sided with the Administration, and considered it regrettable that the Report was skewed towards the Administration's positions. Referring to paragraph 33 of the Report, he said that the Report should have pointed out clearly that the Administration failed to provide any documents to support its position that the Bill did not contravene BL. Besides, he considered that if staff of the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") went on strike and took related action in the MPA, it should be considered as an employment-related matter and thus a reserved matter on which Hong Kong would exercise jurisdiction, and therefore, he was dissatisfied with paragraph 90 of the Report which stated that "[t]he

Action

Administration has responded that public order in the MPA is a non-reserved matter, and that the staff concerned should respect and abide by the applicable laws of the respective jurisdictions". He also queried why the Report had not included the Bar Association's submissions, and the written questions from members of the Bills Committee as well as the written responses from the Administration. Therefore, Dr CHEUNG said that he would not accept the Report nor support the resumption of the Second Reading debate on the Bill at the Council meeting of 6 June 2018.

34. Ms Claudia MO considered it regrettable for the Report to be written in such a way that the Administration seemed always had the last word on any controversial issues concerning the Bill. Referring to paragraphs 20 and 34 to 36 of the Report about her concern over whether similar co-location arrangement would be adopted in the territory of Hong Kong again, she was dissatisfied with the Report which emphasized the Administration's responses that "the legal basis for implementing a policy would be provided as and when necessary having regard to actual circumstances and special needs arising therefrom" and that "Mainland laws would not be arbitrarily applied to other parts of Hong Kong as suggested by some members of the community". In her view, the Report should have included her view that it was undesirable for the Administration to have the final say on when it was necessary to "cede Hong Kong land to the Mainland". As regards the Bar Association's view that LegCo had no authority to pass a Bill that contravened BL, Ms MO queried why the arguments put forward by the Bar Association was not further elaborated in paragraph 21 of the Report. Therefore, she considered it necessary for the Report to be amended before its submission to the Council.

35. Mr CHAN Chi-chuen said that he objected to the Report and considered it necessary for the Bills Committee to convene a further meeting to discuss the Report in detail. For this reason, he objected to the resumption of the Second Reading debate on the Bill at the Council meeting of 6 June 2018. Mr CHAN considered that many phrases used in the Report were value-laden and the Report as currently drafted was biased towards the Administration. Citing paragraphs 33 and 169 of the Chinese version of the Report which read "儘管政府當局作出上述解釋，部分委員(包括許智峯議員、尹兆堅議員、郭榮鏗議員、張超雄議員及陳志全議員)依然認為《條例草案》違反《基本法》....." and "..... 儘管如此，政府當局已安排另一次視察西九龍站的活動，視察路線與之前一次活動相同。" respectively, Mr CHAN took the view that the phrases

Action

"儘管.....依然....." ("Notwithstanding...remain of the view that..." in English) and "儘管如此" ("That said" in English) seemed to suggest that the relevant view and request of members of the Bills Committee were unreasonable. Mr CHAN further said that paragraph 169 of the Report should have stated clearly that some members of the Bills Committee had requested to inspect the doors and passageways connecting the Hong Kong port area and MPA at WKS as well as the security measures to be adopted specifically for these doors and passageways, and that the Administration had declined such request. He also considered that paragraph 176 of the Report should have stated the total number of amendments proposed to be moved to the Bill by individual members of the Bills Committee. Mr CHAN was dissatisfied that the Bills Committee had at its last meeting taken only a few hours to complete its discussion on such proposed amendments and only less than one minute was allowed by the Chairman of the Bills Committee to take a vote on each of those proposed amendments.

36. As regards Mr CHAN Chi-chuen's enquiry as to whether the Bills Committee could hold another meeting after submitting its written report to HC, the Chairman advised that there were such cases in the past. However, it would be for the Bills Committee instead of HC to decide whether such arrangement would be made.

37. Mr Alvin YEUNG said that he shared Ms Tanya CHAN's concern that the letters from various members of the Bills Committee enquiring on matters relating to the Bill and the Administration's subsequent written responses to those letters had not been incorporated into the Report. Referring to paragraph 21 of the Report which mentioned that the Bar Association had provided submissions to the Bills Committee expressing grave concern that the Bill contravened BL, Mr YEUNG considered that it should also be stated that the Administration had, in its written response to the Bills Committee dated 29 March 2018 (LC Paper No. CB(4)850/17-18(01)), affirmed that it was not aware of any previous occasion in which the Bar Association had provided submissions to a Bills Committee stating that the bill under scrutiny, if enacted as an ordinance, would contravene BL. In his view, it was necessary to include such an important fact in the Report as it would facilitate the public to judge whether or not the Bill contravened BL.

Action

38. Dr Priscilla LEUNG said that she had pointed out earlier to the Bills Committee that the use of "地理涵蓋範圍" as the Chinese rendition of "geographical scope" in the Bill was unsatisfactory. In respect of paragraphs 16 and 40 of the Report, Dr LEUNG advised that she had expressed different views on the issues raised by those members of the Bills Committee as referred to in the Report. She considered that the constitutionality of the Bill should be examined not only by adopting the common law approach; reference should also be made to the applicable principles of Chinese constitutional law. She added that the "Decision of the Standing Committee of the National People's Congress on Approving the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement" ("the Decision") on 27 December 2017 had provided a sound legal basis for the Bill and hence an interpretation of the relevant provisions of BL by the Standing Committee of the National People's Congress was not necessary. She hoped that her above views would be included in the Report.

39. Dr CHENG Chung-tai said that he agreed with the view that some information provided in the Report was incomplete and inaccurate. He was particularly concerned that the drafting of some parts of the Report might have amounted to determination of certain legal issues based on the responses given by the Administration. An example could be found in paragraphs 129 to 132 of the Report, which set out the concerns of some members of the Bills Committee and the Administration's response regarding the provision of telecommunication services in the train compartments of trains in operation on the Hong Kong Section of the XRL. Dr CHENG pointed out that paragraph 131 of the Report seemed to suggest that as provision of service by Hong Kong telecommunications operators in MPA at WKS was regarded as "reserved matters" under clause 3 of the Bill, it would be regulated by the laws of Hong Kong and Mainland laws did not apply. However, neither Article 7(3) of the "Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement" nor the relevant written response provided by the Administration to the Bills Committee had provided such a clear indication that provision of telecommunication services by Hong Kong operators in MPA was to be governed by the Hong Kong Special Administrative Region ("HKSAR") in accordance

Action

with the laws of HKSAR and thus was regarded as "reserved matters" under clause 3 of the Bill. Dr CHENG added that he shared the view of Mr CHAN Chi-chuen that the Report should be deliberated by the Bills Committee before it was submitted to the Council.

40. Dr Junius HO said that he noted that paragraph 21 of the Report had stated the view of the Bar Association that the Bill contravened BL and had no sound constitutional basis. In his view, it should also be stated in the same paragraph that the Bar Association might not be qualified to advise on or question the constitutionality of the Bill, given that all of the 25 members of the Bar Council were not qualified to practise in the Mainland and the Association had no legal authority or status to decide that the Decision, upon which the Bill was based, was void.

41. Mr LEUNG Yiu-chung said that it was rare for a Bills Committee report to be questioned by so many Members when it was considered by HC. As concerns were raised that the Report had failed to reflect comprehensively the views and concerns expressed by members of the Bills Committee and some descriptions therein were incomplete and inaccurate, he considered that Members should not decide in haste whether the resumption of Second Reading debate on the Bill should be supported and the Report should be discussed by the Bills Committee in detail before its submission to the Council.

42. Dr Helena WONG said that while paragraph 21 of the Report had stated the Bar Association's concern that the Bill contravened BL and had no sound constitutional basis, there was no mention of the arguments put forward by the Bar Association in relation to such concern. In her view, such information should be included in the Report. Dr WONG further said that as divergent views had been expressed during the scrutiny of the Bill as to whether the proposed co-location arrangement would contravene BL 18, it was necessary to set out clearly the arguments put forward by various members of the Bills Committee and highlight that no consensus was reached in this respect in the Report. She also hoped that the Report would include the Bills Committee's deliberations on issues regarding the acquisition of the right to use MPA by the Mainland and whether the Mainland would be required to pay any rent to the HKSAR Government for the use of MPA. Echoing the view that the Report appeared to have covered mainly the Administration's views, Dr WONG stressed that the Report was a report of LegCo and it should be drafted from LegCo's perspective.

Action

43. Mr CHEUNG Kwok-kwan pointed out that although the Bill only contained a small number of clauses, the Bills Committee had held as many as 17 meetings, i.e. 45 hours of duration in total, to scrutinize the Bill in detail. He was grateful to the Clerk and the Legal Advisers to the Bills Committee for their hard work, and he considered that the Report had provided a comprehensive and accurate summary of the Bills Committee's deliberations on the Bill. In respect of the view of some Members that the Report had failed to reflect fully the views and concerns expressed by members of the Bills Committee, Mr CHEUNG stressed that the Report was neither a verbatim transcript of the proceedings of meetings nor an academic paper. It was not possible to include in the Report each and every view expressed or argument put forward by individual members of the Bills Committee. Regarding the query raised by some members of the Bills Committee as to why the submissions provided by the Bar Association to the Bills Committee had not been included as an appendix to the Report, Mr CHEUNG said that the key views of the Bar Association had already been set out in paragraph 21 of the Report and the relevant submissions had been uploaded onto the LegCo website for public reference. He also considered it appropriate not to mention in the Report the request raised by some members of the Bills Committee for visiting the Shek Kong Stabling Sidings as such request was not directly relevant to the scrutiny of the Bill. He added that he supported the Report and the resumption of Second Reading debate on the Bill at the Council meeting of 6 June 2018.

44. Mr Paul TSE considered that the criticisms made by some Members on the Report were unfair to the Secretariat. Pointing out that the Bills Committee was composed of as many as 64 members, Mr TSE said that it was clearly not possible to state each and every view expressed by individual members of the Bills Committee in the Report. He agreed with the view that the Report was not a verbatim transcript of the proceedings of meetings and it served only to summarize the major views and concerns raised by members of the Bills Committee. Mr TSE further said that it would set a bad precedent for Members to discuss in detail the reports of Bills Committees at HC meetings. In his view, individual members of the Bills Committee might liaise with the Secretariat should they have comments on the Report, and it was not appropriate or practical for HC to examine in detail whether the views of individual members of a Bills Committee had been duly reflected in the relevant report. He sought information from SG on how individual Members' comments on a Bills Committee report could be dealt with.

Action

45. SG responded that as said by the Chairman and some other Members earlier at the meeting, the Report was only a summary of the deliberations of the Bills Committee and was not a verbatim transcript of the proceedings of meetings. In addition to the Report, minutes of meetings of the Bills Committee would be uploaded onto the LegCo website once available, and all the relevant papers issued including the written submissions had been made available on the LegCo website. Should members of the Bills Committee have any views on the Report, they were welcome to put forward their views in writing to the Clerk to the Bills Committee after this meeting. In response to Mr Paul TSE's further enquiry, SG said that as in line with past practice, HC was to note the report of a Bills Committee after it had completed its scrutiny work. No debate would be held on the report of a Bills Committee.

46. Mr CHU Hoi-dick said that the Report could not reflect the fact that the meetings of the Bills Committee were conducted in a contentious manner, and that some members of the Bills Committee were dissatisfied with the way the Chairman of the Bills Committee had presided over the meetings. Mr CHU said that he had issues about various parts of the Report, but he was particularly concerned about two omissions. First, as stated in paragraph 84 of the Report, the Administration had advised that "laws of the Mainland" referred to "the whole body of laws of the Mainland". If that was the case, he considered it necessary for the Report to include his concern that as "the whole body of laws of the Mainland" also included BL, then there would be confusion as to whether BL would be applicable in MPA. Second, as regards the site visits, paragraph 169 of the Report only stated that ".....the Administration has arranged another visit to WKS and the route of the visit has aligned with that previously arranged" but did not mention that the Administration had declined the request of some members of the Bills Committee for inspecting certain areas of WKS as pointed out also by Mr CHAN Chi-chuen. Mr CHU said that based on the contention that LegCo had no authority to pass a Bill that contravened BL, he objected in principle to the resumption of Second Reading debate on the Bill at the Council meeting of 6 June 2018.

47. Mr Andrew WAN said that given the contentious nature of the Bill, the Report should have provided more details of the views raised by various members of the Bills Committee. Furthermore, he considered that various parts of the Report should have been more accurate, e.g. paragraphs 33, 91, 111 and 141 in which his name was mentioned. Referring to paragraph 91 of the Report, Mr WAN said that the Report

Action

should have mentioned that he also requested the Administration to ensure that there would be consistent usage of the term "Mainland Authorities Stationed at the MPA" in different parts of the Bill. Besides, referring to paragraph 97 of the Report concerning applicability of international treaties in MPA, he said that the Report should have mentioned that he had submitted a proposed amendment to the relevant clause. He added that he would liaise with the Clerk to the Bills Committee concerning his proposed amendments to the Report.

48. Dr Elizabeth QUAT said that she supported the Report and thanked the Chairman of the Bills Committee for her hard work in presiding over the meetings of the Bills Committee. She commented that some Members had for a long time taken every opportunity to express their opposition against the implementation of co-location arrangement, and therefore, their criticisms against the Chairman of the Bills Committee and the Secretariat staff concerned were not fair and not warranted. Furthermore, the Bills Committee had already provided ample opportunities for its members to deliberate on the Bill, but some members of the Bills Committee had repeatedly raised questions which, in her view, were unreasonable and absurd. Given the divergent views among Members on the Bill, Dr QUAT considered it appropriate for the Chairman to put to vote as to whether HC supported the resumption of Second Reading debate on the Bill at the Council meeting of 6 June 2018.

49. Referring to Mr CHEUNG Kwok-kwan's remarks, Ms Tanya CHAN said that she had requested that the site visit to WKS be conducted after the by-election on 11 March 2018, but her request had not been acceded to. As the Shek Kong Stabling Sidings were mentioned in the Bill, it was reasonable for some members of the Bills Committee to request a site visit to that place. She therefore considered that paragraph 169 of the Report should have mentioned that some members of the Bills Committee had made such request and that the Administration had declined to arrange. Furthermore, paragraph 170 of the Report should have mentioned that some members of the Bills Committee had requested the Administration to provide the floor plans of MPA and the Administration had declined to do so.

50. In response to the enquiries made by Mr Andrew WAN and Ms Tanya CHAN about how the proposed amendments to the Report would be dealt with, the Chairman said that it was rare for members of a Bills Committee to propose amendments to the report of the Bills Committee concerned after the report was submitted to HC. She explained that in

Action

accordance with Rule 76(10) of the Rules of Procedure, the deliberations of a Bills Committee as detailed in its report should not be binding on any Member, whether in Council, in a committee of the whole Council or in HC. As said earlier at the meeting, those members of the Bills Committee who wished to propose amendments to the Report should write to the Clerk to the Bills Committee after this meeting, so that the Chairman of the Bills Committee could consider whether it was necessary to incorporate those proposed amendments in the Report to be submitted to the Council. The Chairman further said that Members' views and comments raised at this meeting would be covered in the minutes thereof, which would also be made available to the public on the LegCo website. There were also many other channels for Members to openly express their views on the Bill to the public and to other Members.

51. At the invitation of the Chairman, Mrs Regina IP said that the Report submitted to HC was not a draft report. The Report was by nature a summary of the deliberations of the Bills Committee, and therefore, it was unrealistic for Members to expect that the report should be as detailed as a verbatim transcript. However, views/concerns raised by individual members of the Bills Committee at various meetings of the Bills Committee would be covered in more detail in the minutes thereof, and members of the Bills Committee could comment on those draft minutes when they were later circulated to members for consideration. She added that Members who wished to express their views on the Bill would have ample opportunities to do so when the Bill resumed its Second Reading debate at the Council meeting of 6 June 2018.

52. The Chairman said that given Members' diverse views, she put to vote the following question: "That this Committee supports the resumption of the Second Reading debate on the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill at the Council meeting of 6 June 2018". The Deputy Chairman requested a division.

The following Members voted in favour of the proposal:

Mr Tommy CHEUNG, 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 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, Ir Dr LO Wai-kwok, Dr Junius HO, Mr HO Kai-ming, Mr Holden CHOW,

Action

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, Mr Kenneth LAU, Mr Vincent CHENG and Mr Tony TSE.
(35 Members)

The following Members voted against the proposal:

Mr LEUNG Yiu-chung, Prof Joseph LEE, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Dennis KWOK, Dr Fernando CHEUNG, Dr Helena WONG, 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, Mr Jeremy TAM and Mr Gary FAN.
(19 Members)

The following Member abstained from voting:

Dr Pierre CHAN

53. The Chairman declared that 35 Members voted for and 19 Members voted against the proposal and one Member abstained from voting. The Chairman declared that the proposal was supported.

54. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above Bill would be Monday, 28 May 2018.

(b) Report of the Subcommittee on Banking (Disclosure) (Amendment) Rules 2018 and Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2018

55. Mr CHAN Chun-ying, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. He said that the main purposes of the Banking (Disclosure) (Amendment) Rules 2018 and the Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2018 were to: (a) implement certain disclosure requirements issued by the Basel Committee on Banking Supervision ("BCBS") in March 2017 and such requirements were applicable to authorized institutions ("AIs") under the Banking Ordinance (Cap. 155) ("BO"); and (b) specify the Asian Infrastructure Investment Bank ("AIIB") as a multilateral development bank ("MDB") for the purposes of BO.

Action

56. Mr CHAN further said that the Subcommittee had discussed issues including the justifications for related amendments, the requirements on disclosure of information by AIs and the verification of such information, as well as the risk exposures of AIs which were counterparties to AIIB etc.

57. Mr CHAN advised that some members of the Subcommittee were concerned that the removal of the existing requirements on issuing a press release concurrently with the publication of a disclosure statement under the Amendment Rules would deprive the public of a convenient means of access to the relevant information. The Administration had explained that in view of the web-based disclosures by AIs nowadays and having considered issues including the amount and the target readers/users of the information subject to disclosure as well as the extent of information that would usually be covered by the media, the Administration was of the view that albeit the removal of the aforesaid requirement, transparency of the disclosure could be ensured as AIs were required to publish the disclosure statements on their internet websites.

58. Mr CHAN also advised that members of the Subcommittee noted that upon the specification of AIIB as an MDB for the purposes of BO, AIs' exposures to AIIB would be accorded preferential treatment in the calculation of the regulatory capital and liquidity requirements. Some members of the Subcommittee were concerned whether this would increase the credit risks of the AIs concerned.

59. Members noted that according to the Administration, BCBS had critically assessed AIIB according to a set of criteria in its capital framework and considered it eligible for the preferential treatment. In addition, BO had stipulated that the financial exposure of an AI to any person or company should not exceed an amount equivalent to 25% of the capital base of the AI concerned and such requirement would help to manage and reduce the risk exposures of AIs.

60. Members also noted that the Subcommittee had no objection to the two items of subsidiary legislation, and that both the Administration and the Subcommittee would not propose any amendments to them. The Subcommittee would submit a written report in due course.

(c) Report of the Subcommittee on Construction Workers Registration Ordinance (Expiry of Section 39(1)(b) and (d)) Notice

61. Mr HO Kai-ming, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. Mr HO said that under section 39(1)(b) and (d) of the Construction Workers Registration Ordinance (Cap. 583) ("CWRO"), workers with relevant skill works experience might apply for registration as registered skilled workers (provisional) or registered semi-skilled workers (provisional). He further said that provisional registration was provided as a transitional arrangement for experienced construction workers who were carrying out skill works upon the commencement of the registration system for construction workers on 29 December 2005. The purpose of the Notice was to appoint 1 July 2019 as the day on which section 39(1)(b) and (d) of CWRO would expire in order to terminate the arrangement for provisional registration.

62. Mr HO informed Members that members of the Subcommittee supported the arrangement for the cessation of provisional registration, and noted that the stakeholders in the construction industry including the labour unions had reached a consensus on the relevant arrangement. Mr HO further said that the Subcommittee had discussed whether it was necessary to slightly defer the date for the cessation of provisional registration since there were still about 1 200 registered semi-skilled/skilled workers (provisional) as at December 2017. According to the Administration, the cessation of provisional registration would have little impact on the construction industry and workers in active service. Before the expiry date of 1 July 2019, eligible workers with relevant skill works experience might still apply for registration as semi-skilled/skilled workers (provisional). Registered semi-skilled/skilled workers (provisional) might, within the three-year valid period of their provisional registrations, apply for registration as registered semi-skilled/skilled workers after passing the relevant trade tests or obtaining the relevant certifications specified by CWRO.

63. Mr HO also advised that members of the Subcommittee noted that the Construction Industry Council had been publicizing to workers about the cessation of provisional registration, and had also advised contractors, subcontractors, trade associations and labour unions accordingly, in order to help remind workers who wished to seek provisional registration.

Action

The Administration had undertaken to send messages to relevant workers through mobile phone short message services to remind them about the arrangement on the cessation of provisional registration and the deadline for application for provisional registration. The Administration had also undertaken to send letters to those existing 1 200 registered workers (provisional) to call on them to complete the registration as registered semi-skilled/skilled workers early.

64. Members noted that the Subcommittee would submit a written report in due course.

65. The Chairman reminded Members that as the period for amending the above three items of subsidiary legislation would expire at the Council meeting of 6 June 2018, the deadline for giving notice of amendments, if any, would be Wednesday, 30 May 2018.

(The meeting was suspended at 4:05 pm and resumed at 4:15 pm.)

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)1436/17-18)

66. The Chairman said that as at 24 May 2018, there were 10 Bills Committees, 13 subcommittees under HC and four subcommittees on policy issues under Panels in action. Nine subcommittees on policy issues were on the waiting list.

67. The Chairman invited Members to note that only two Members had signified to join the proposed Subcommittee on Road Tunnels (Government) (Amendment) Regulation 2018 and Road Tunnels (Government) Ordinance (Amendment of Schedule 1) Notice 2018 by the deadline for signification of membership. According to the relevant House Rules ("HR"), a subcommittee should consist of not less than three members and accordingly, the above proposed subcommittee could not be formed.

VIII. Report of the Subcommittee on Children's Rights and priority allocation of a debate slot for a motion debate on the Report of the Subcommittee on Children's Rights
(*LC Paper No. CB(4)1118/17-18*)

68. At the invitation of the Chairman, Dr Fernando CHEUNG, Chairman of the Subcommittee on Children's Rights ("the former Subcommittee"), said that the former Subcommittee had completed its work and Members were invited to note the Report of the former Subcommittee ("the Subcommittee's Report"). He further said that in view of wide public concern over children's rights, the former Subcommittee proposed to seek HC's approval for the priority allocation of a debate slot under HR 14A(h) to him, in his capacity as the Chairman of the former Subcommittee, for moving a motion for debate on the Subcommittee's Report at the Council meeting of 20 June 2018. The debate would provide an opportunity for Members to express views on the subject and for the Administration to respond.

69. Members agreed to the priority allocation of a debate slot to Dr Fernando CHEUNG for moving a motion on the Subcommittee's Report at the Council meeting of 20 June 2018. Members also agreed to the former Subcommittee's proposal that in addition to the debate on the Subcommittee's Report, only one other debate on a Member's motion not intended to have legislative effect should be held at the same Council meeting.

IX. Request of Hon LAM Cheuk-ting to seek the House Committee's recommendation for the holding of an adjournment debate pursuant to Rule 16(4) of the Rules of Procedure at the Council meeting of 30 May 2018 on the impact of maintenance of lifts on public safety
(*LC Paper No. CB(2)1447/17-18(01)*)

70. At the invitation of the Chairman, Mr LAM Cheuk-ting said that after the tragic lift accident occurred at Waterside Plaza in Tsuen Wan in early April 2018 in which two residents were seriously injured, another terrifying lift accident occurred in Paris Court at Sheung Shui Town Centre in early May in which a female resident was killed ("the Sheung Shui accident"). Given that the lift involved in the Sheung Shui accident had just undergone an annual inspection and a regular inspection in February and May 2018 respectively, he was concerned that a fatal accident occurred so shortly after the inspections. Mr LAM further said that the remarks made by an official of the Electrical and Mechanical

Action

Services Department ("EMSD") after the Sheung Shui accident that lift inspections could only verify the status of lift components in the then prevailing circumstances had caused worries to the general public about lift safety. Furthermore, there were currently about 66 000 lifts in Hong Kong and 28 percent of them were older than 31 years and over 3 000 were older than 50 years. In view of the above, he considered that an adjournment debate on the impact of maintenance of lifts on public safety was warranted. Mr LAM added that he noted that the Panel on Development ("the DEV Panel") had scheduled to discuss an item "Regulatory control over lift safety" at its meeting on 29 May 2018. However, as the Panel had 40 members and the scheduled discussion time for this item was only 30 minutes, there would not be sufficient time for members of the DEV Panel ("Panel members") to ask questions and raise their views. He therefore hoped that Members would support his proposal of holding an adjournment debate at the Council meeting of 30 May 2018.

71. Mr HO Kai-ming said that about 84 percent of the lifts in the buildings in Hong Kong were managed by private property owners and in his view, the Administration should provide assistance to them to ensure the safety of the lifts in their properties where necessary. He further said that the regulation of lift maintenance services, the manpower of the industry and related supporting services were all important factors in ensuring lift safety in Hong Kong. Mr HO considered it necessary for the DEV Panel to allow more discussion time for the item relating to lift safety at its next meeting so that the Development Bureau and EMSD could respond to the views and concerns of Panel members on the subject.

72. Mr LAU Kwok-fan said that he was concerned about the recent lift accidents and noted that the DEV Panel would discuss relevant issues at its next meeting, which would be even earlier than the date of the Council meeting of 30 May 2018 on which Mr LAM Cheuk-ting proposed to move an adjournment motion. He noted that the duration of an adjournment debate at a Council meeting would be kept within one and a half hours, and the Government officials would only reply after Members had spoken. Therefore, he considered it more desirable and appropriate to discuss the subject at the next meeting of the DEV Panel, as it would allow the Government officials attending the meeting to respond to the questions raised by each member.

Action

73. Mr Alvin YEUNG considered that if the proposed adjournment debate would be held at the Council meeting of 30 May 2018, it would raise public's awareness of lift safety and allow Members to freely express their views. Given the heavy agenda of the next meeting of the DEV Panel, he was concerned if Panel members could have sufficient time to express their views at that meeting. As he believed that Members of the pro-establishment camp would agree that lift safety was an important issue, Mr YEUNG hoped that they would support Mr LAM Cheuk-ting's proposal.

74. Mr Tommy CHEUNG said that the Liberal Party was concerned about lift safety in Hong Kong. He advised that soon after the Sheung Shui accident, he, as the Chairman of the DEV Panel, had agreed to add an item "Regulatory control over lift safety" to the agenda of the next meeting of the DEV Panel, and that the Secretary for Development had agreed to attend the meeting for this item. Although the discussion time allocated for this item was 30 minutes, he could extend the meeting for 15 minutes beyond its appointed ending time if necessary. Mr CHEUNG considered that Panel members could have a more focused discussion on the subject at that meeting, adding that he did not rule out the possibility of extending the meeting further so as to allow more Panel members to raise their views or questions on the subject.

75. Dr Fernando CHEUNG said that even if 45 minutes would be allocated for the item relating to lift safety, it was still not sufficient for Panel members to raise questions and the Administration to respond given the large membership size of the DEV Panel. He also pointed out that the proposed adjournment debate would only be held after all business on the Agenda of the Council meeting of 30 May 2018 had been concluded, and therefore the proposed adjournment debate would not affect other proceedings of the Council meeting. Therefore, he supported Mr LAM Cheuk-ting's proposal.

76. Mr Paul TSE said that as stated in paragraph 10.81 of *A Companion to the history, rules and practices of LegCo*, in considering whether support should be given to a Member for raising an issue for adjournment debate under Rule 16(4) of the Rules of Procedure ("RoP"), HC would have regard to whether the issue should have been or could be raised by the Member in a motion debate under the allocation system, and whether the issue was of such an urgent, important and topical nature that a reply from a designated public officer was necessary at the specified Council meeting. Mr TSE pointed out that Mr LAM Cheuk-ting and Ms

Action

Claudia MO had moved Members' motions for debate at the Council meeting of 7 June 2017 and 31 May 2017 respectively. In his view, Mr LAM, and Ms MO who had also submitted a proposal for moving a motion on an adjournment debate which would be discussed under item X of this meeting, were both attempting to bypass the allocation system, which was unfair to Members who had not yet been allocated a motion debate slot in this term. Therefore, he objected to Mr LAM Cheuk-ting's proposal.

77. Ms Claudia MO said that while the lift safety issue could be discussed at the next meeting of the DEV Panel, she considered that the 45-minute discussion time was not sufficient given that the membership size of the Panel was large and that non-Panel members might also wish to join the discussion. As the total speaking time for Members at an adjournment debate was 75 minutes and the designated public officers would have 15 minutes for replies, Ms MO considered it more desirable to hold the proposed adjournment debate.

78. Dr CHENG Chung-tai said that while the subject of lift safety had been raised at the recent Chief Executive's Question Time and Ms Starry LEE had proposed to raise an oral question on the subject at the Council meeting of 6 June 2018, he concurred with the view that more discussion on the subject issue would arouse greater awareness on lift safety. Dr CHENG further said that as the proposed adjournment debate would only be held after all business on the Agenda of the Council meeting of 30 May 2018 had been concluded, he did not see any problems if Mr LAM Cheuk-ting's proposal was supported by HC. He added that he had a neutral stance on Mr LAM's proposal.

79. Mr CHAN Chi-chuen considered it inconceivable for some Members not to support the proposed adjournment debate as lift safety was related to people's livelihood and not a political issue. Given the importance of the subject, he considered it necessary for LegCo to hold the proposed adjournment debate, even if the subject had been or would be raised on other occasions, such as the Chief Executive's Question Time and the next meeting of the DEV Panel.

80. Ir Dr LO Wai-kwok said that Members of different political parties and groupings were concerned about the subject of lift safety. However, a more pragmatic approach should be adopted to deal with the matter. He considered that the issue should be discussed by the DEV Panel at its next meeting, as the Secretary for Development would attend the meeting

Action

for this item and there would be ample opportunities at the meeting for Members to discuss lift maintenance and its regulation, as well as the manpower of the industry. Ir Dr LO added that whether or not to hold an adjournment debate on the issue could be decided after the discussion at the Panel meeting.

81. Dr CHIANG Lai-wan said that it was understandable for Mr LAM Cheuk-ting to propose the holding of an adjournment debate on the subject of lift safety, as the Sheung Shui accident occurred in the North District and Mr LAM was a member of the North District Council. However, she wondered whether Mr LAM was aware that many residents of the estate involved in the Sheung Shui accident had complained about the malfunctioning of the lifts of the estate for some time. Dr CHIANG considered that Members should do practical things for the community, and in her view, it would be more appropriate for the subject to be discussed at the next meeting of the DEV Panel.

82. Mr SHIU Ka-chun said that he was very concerned about the lift accidents, in particular the one which occurred in Tsuen Wan as the victims were the neighbours of his student. He noted that after the lift accidents occurred, the Administration had indicated that it would consider setting up a fund to subsidize private property owners to replace old components of the lifts in their properties. However, he was concerned that the proposed fund might be abused by some private property owners and therefore, it was necessary for Members to discuss with the Administration the actions that it had taken after the lift accidents and other follow-up work. He added that he supported Mr LAM Cheuk-ting's proposal.

83. On Dr CHIANG Lai-wan's remarks about his proposal, Mr LAM Cheuk-ting said that he hoped that Dr CHIANG would focus on the subject of lift safety and do justice to the deceased. He further said that the agenda of the next meeting of the DEV Panel also included two controversial items, namely "Public engagement by the Task Force on Land Supply" and "Proposed enhancements to the general ex-gratia compensation and rehousing arrangements for Government's development clearance exercises" which would likely take up substantial discussion time. He further said that he was indeed doing practical things for the community and the holding of the proposed adjournment debate at the Council meeting of 30 May 2018 was necessary.

Action

84. The Chairman reminded Members that as the deadline for giving notice of moving a motion under RoP 16(4) at the Council meeting of 30 May 2018 was 19 May 2018, if Members supported Mr LAM Cheuk-ting's proposal, HC would recommend seeking the President's permission to dispense with the aforesaid notice. Given Members' diverse views, the Chairman put to vote the proposal of Mr LAM Cheuk-ting to move a motion for adjournment of the Council, in addition to two Members' motions without legislative effect, pursuant to RoP 16(4) at the Council meeting of 30 May 2018 for the purpose of conducting a debate on the impact of maintenance of lifts on public safety. Mr Tommy CHEUNG requested a division.

The following Members voted in favour of the proposal:

Prof Joseph LEE, Mr WONG Kwok-kin, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Ms Alice MAK, Mr KWOK Wai-keung, Mr Dennis KWOK, Dr Fernando CHEUNG, Dr Helena WONG, Mr Alvin YEUNG, Mr CHU Hoi-dick, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Ms Tanya CHAN, Mr HUI Chi-fung, Mr LUK Chung-hung, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Jeremy TAM and Mr Gary FAN.
(22 Members)

The following Members voted against the proposal:

Mr Tommy CHEUNG, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Mrs Regina IP, Mr Paul TSE, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr LEUNG Che-cheung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LAU Kwok-fan, Mr Kenneth LAU, Mr Vincent CHENG and Mr Tony TSE.
(28 Members)

85. The Chairman declared that 22 Members voted for and 28 Members voted against the proposal and no Member abstained from voting. The Chairman declared that the proposal was not supported.

Action

86. Mr Tommy CHEUNG informed Members that he had just instructed the Clerk to the DEV Panel to issue a circular to inform members of the DEV Panel that the next meeting of the Panel to be held on 29 May 2018 would be extended to end at 6:30 pm and the discussion time for the item "Regulatory control over lift safety" would be extended to a total of one hour.

X. Request of Hon Claudia MO to seek the House Committee's recommendation for the holding of an adjournment debate pursuant to Rule 16(4) of the Rules of Procedure at the Council meeting of 6 June 2018 on the impact on freedom of the press arising from Hong Kong journalists, while carrying out their ordinary journalistic duties on the Mainland, being intervened by public officials using force

(LC Paper No. CB(2)1447/17-18(02))

87. At the invitation of the Chairman, Ms Claudia MO said that it was the second time in a week that Hong Kong journalists were being physically assaulted by the Mainland public officials while carrying out ordinary journalistic duties on the Mainland ("the incidents concerned"). Ms MO criticized that the Chief Executive ("CE") had not condemned such violent acts and remained silent like a quail. Instead, CE called on the Hong Kong journalists working on the Mainland or overseas to respect the laws there and pointed out that laws were different from place to place. Ms MO said that the relevant response from CE was in sharp contrast to the condemnations that the Administration had made against the remarks about Hong Kong that Mr Benny TAI Yiu-ting had made at a forum held in Taiwan in March 2018 and also the recent phone-snatching incident concerning Mr HUI Chi-fung in April 2018. She stressed that while freedom of the press was important, concern about the personal safety of the Hong Kong journalists was equally imperative. She considered that the proposed adjournment debate at the Council meeting of 6 June 2018 could provide an opportunity for Members to express their concerns about the incidents concerned as well as their views on how the Administration should follow-up these incidents. Ms MO hoped that more Members would come forward to condemn the violent acts of the Mainland public officials in the incidents concerned.

Action

88. Mr CHU Hoi-dick said that while some principal officials had made responses to the incidents concerned, it was regrettable that their responses seemed to suggest that the journalists involved in the incidents concerned might have done something which violated the laws of China. In his view, it might give the public the wrong impression that there were grounds for the Mainland public officials to assault the Hong Kong journalists. Mr CHU said that the Hong Kong journalists had made a lot of contributions in covering the news in China, and he supported Ms Claudia MO's proposal as the holding of the proposed adjournment debate would do justice to all Hong Kong journalists.

89. Mr Gary FAN said that this was not the first time for Hong Kong journalists to be physically assaulted by the Mainland public officials and similar incidents had occurred from time to time. He pointed out that every time similar incidents occurred, the Administration would respond that it would follow-up the incidents but eventually, such incidents were settled by leaving them unsettled. Mr FAN was of the view that the journalists involved in the incidents concerned ("the journalists concerned") were trying to defend Hong Kong people's right to know and fulfil their duties as reporters and he therefore supported Ms Claudia MO's proposal.

90. Mr Alvin YEUNG said that the journalists concerned were Hong Kong people and if they were being intervened by people using force in the course of carrying out their journalistic duties in places outside Hong Kong, it was incumbent upon LegCo to speak out for them. Mr YEUNG further said that the proposed adjournment debate was a way to show LegCo's concern for the press. He was of the view that Members of the pro-establishment camp should also support the proposed adjournment debate as it could provide an opportunity for them to speak openly why and in what way, in their view, the journalists concerned might have done something wrong in carrying out their ordinary journalistic duties on the Mainland.

91. Dr Fernando CHEUNG pointed out that the proposed adjournment debate, if recommended by HC and approved by the President, would only take place at the conclusion of the business on the Agenda of the Council meeting of 6 June 2018 and as such, the holding of the proposed adjournment debate would not affect any proceedings of the Council meeting. In particular, the proposed adjournment debate would not occupy the debate slots for Members' motions not intended to have legislative effect and, thus, it would not give rise to concern about

Action

jumping the queue for debate slots. Dr CHEUNG said that given the important nature of the incidents concerned, he hoped that Members of the pro-establishment camp would support Ms Claudia MO's proposal.

92. Mr CHAN Chi-chuen said that he would like to pay tribute to those news practitioners carrying out journalistic duties on the Mainland, since these practitioners on the one hand had to uphold the journalistic principles to present the real side of the Mainland to Hong Kong people, but on the other hand had to take care of their own personal safety while carrying out their journalistic duties. Mr CHAN further said that the Hong Kong Special Administrative Region Government should protect the local news practitioners who were carrying out their duties in places where the press enjoyed less freedom. Mr CHAN considered it appropriate to follow-up the incidents concerned through the proposed adjournment debate.

93. Dr CHIANG Lai-wan said that soon after the outbreak of the incident concerning a confrontation between a Hong Kong journalist and the Mainland police in Beijing ("the Beijing incident"), she had contacted the Constitutional and Mainland Affairs Bureau ("CMAB") to request the Bureau to follow-up the incident immediately. She said that to her understanding, CMAB had followed up the Beijing incident and that the journalist concerned was still working in Beijing as usual. Dr CHIANG said that she was very concerned about this incident and hoped that the Hong Kong journalist involved in this incident could return to Hong Kong as soon as possible to give a detailed account of the incident.

94. Mr HUI Chi-fung said that violent acts against Hong Kong journalists had occurred from time to time on the Mainland, but both the local Government officials and Members of the pro-establishment camp did not dare to condemn such incidents. As the incidents concerned had touched upon the freedom of the press in Hong Kong as well as the dignity and the common interest of Hong Kong people, Mr HUI considered it necessary to hold the proposed adjournment debate so that Members could speak out on the incidents concerned at an open platform. He, therefore, supported Ms Claudia MO's proposal.

95. Mr Holden CHOW said that as the facts surrounding the Beijing incident remained unclear and some news footage indicated that another confrontation might be at play on that day, he considered that it would be fair to leave the incident in the hands of the Mainland authorities. He further said that while he agreed that LegCo should express concern over

Action

the personal safety of the Hong Kong journalists carrying out journalistic duties on the Mainland, it was not appropriate to turn the Council into a court for the incidents concerned.

96. Mr KWONG Chun-yu criticized CE for not daring to condemn the violent acts of Mainland public officials against the Hong Kong journalists in the incidents concerned. He said that the proposed adjournment debate would enable the Hong Kong journalists to feel that Members were truly concerned about them and he, therefore, supported Ms Claudia MO's proposal. Mr KWONG considered that Members of the pro-establishment camp should also support the proposed adjournment debate if they supported freedom of the press and were truly concerned about the incidents concerned.

97. Mr Charles MOK said that he supported Ms Claudia MO's proposal. He pointed out that the Hong Kong journalist involved in the Beijing incident was physically assaulted and was released only upon the signing of a statement of repentance. He said that even if Members of the pro-establishment camp did not want to follow-up the incidents concerned by themselves at the Council, they should not obstruct other Members to do so by casting votes against Ms MO's proposal when it was put to vote. Mr MOK added that the Professionals Guild had launched a one-person-one-letter online campaign appealing to the public to send an email to CE and related Government officials requesting the Administration to, amongst others, condemn the violent acts of the Mainland police against the Hong Kong journalists, and the campaign had already received the support from over 2 000 people.

98. Dr CHENG Chung-tai said that subsequent to the incidents concerned, CE had called on the Hong Kong journalists working on the Mainland or overseas to respect the laws there and had said that laws were different from place to place. He commented that CE should be condemned for making such remarks. In addition, the Administration as well as the relevant officials of CMAB and the Security Bureau should also be condemned for being ineffective in protecting the personal safety of the Hong Kong journalists carrying out their journalistic duties on the Mainland. In view of the above, Dr CHENG considered that it was reasonable to hold the proposed adjournment debate and he expressed support for Ms Claudia MO's proposal.

Action

99. Mr SHIU Ka-chun said that he noted that the Secretary for Justice had responded to the Beijing incident and said that she hoped that the journalist concerned could calm down and recover soon. In his view, a way to achieve this was to hold a serious debate on the incidents concerned at the Council as it would do justice to the journalists concerned. Therefore, he supported Ms Claudia MO's proposal.

100. Mr Steven HO considered that some Members had over-interpreted CE's remarks about the incidents concerned. In his view, such remarks were based on facts and were relatively objective. He said that it was difficult to judge who was right and who was wrong simply based on the available news footage on the incidents concerned. Mr HO commented that there was a pre-determined stance in the motion proposed by Ms Claudia MO in which it was stated that the journalists concerned were "carrying out their ordinary journalistic duties" and that they were "being intervened by public officials using force". Therefore, he was concerned that Members' support for Ms MO's proposal would tantamount to endorse her pre-determined stance on the incidents concerned before the facts were established.

101. At the invitation of the Chairman, Ms Claudia MO said that it was regrettable that Mr MA Fung-kwok, being a Member returning from the "Sports, Performing Arts, Culture and Publication" functional constituency, had said nothing on the incidents concerned at this HC meeting. Noting that the Hong Kong Journalists Association had expressed deep regret at CE's refusal to condemn the Mainland police for their violent acts against the Hong Kong journalist involved in the Beijing incident, Ms MO commented that CE should be condemned for not daring to condemn such violent acts.

102. The Chairman said that given Members' diverse views, she would put to vote the proposal of Ms Claudia MO to move a motion for adjournment of the Council, in addition to two Members' motions without legislative effect, pursuant to RoP 16(4) at the Council meeting of 6 June 2018 for the purpose of conducting a debate on the impact on freedom of the press arising from Hong Kong journalists, while carrying out their ordinary journalistic duties on the Mainland, being intervened by public officials using force. The Chairman ordered a division.

Action

The following Members voted in favour of the proposal:

Prof Joseph LEE, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Dennis KWOK, Dr Fernando CHEUNG, Dr Helena WONG, Mr Alvin YEUNG, 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, Mr Jeremy TAM and Mr Gary FAN.
(17 Members)

The following Members voted against the proposal:

Mr Tommy CHEUNG, 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 Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, 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, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr Holden CHOW, 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, Mr Kenneth LAU, Mr Vincent CHENG and Mr Tony TSE.
(35 Members)

103. The Chairman declared that 17 Members voted for and 35 Members voted against the proposal and no Member abstained from voting. The Chairman declared that the proposal was not supported.

XI. Any other business

104. There being no other business, the meeting ended at 5:06 pm.