

立法會
Legislative Council

LC Paper No. CB(2) 127/02-03

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 2nd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 18 October 2002**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-yee, JP

Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon YEUNG Yiu-chung, BBS
Hon LAU Ping-cheung
Hon MA Fung-kwok, JP

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser

Mr LAW Kam-sang, JP	Deputy Secretary General
Mr Andy LAU	Acting Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Miss Kathleen LAU	Chief Public Information Officer
Mrs Vivian KAM	Principal Assistant Secretary (Complaints)
Ms Anita SIT	Chief Assistant Secretary (1)6
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 1st meeting held on 11 October 2002
(*LC Paper No. CB(2) 72/02-03*)

The minutes were confirmed.

II. Matters arising

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

Chief Executive (CE)'s Question and Answer Session

2. The Chairman said that she had relayed to CS the view of some Members regarding the arrangement for CE to speak on the accountability system for principal officials at the end of the Question and Answer Session on 10 October 2002.

3. The Chairman informed Members that CS had responded that he had not discussed with CE regarding the arrangement. CS had pointed out that there was no fixed format for the session, and he was certain that Members would not wish to restrain CE from saying what he wanted to say. As CE felt that the public might like to know his views on the progress of the accountability system and as no question had been asked on the topic, he therefore raised the topic at the end of the session. The Chairman further informed Members that CS had undertaken to discuss the arrangement with CE.

4. The Chairman said that whilst she agreed that the session should be as free and natural as possible and should not be confined to certain topics, she had expressed concern that there was no chance for an exchange of views

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between CE and Members if a topic was raised at the end of the session. It would have been more logical if what CE said about the accountability system had been included in his introductory remarks, so that Members could ask questions on it afterwards.

Co-operation between the Administration and the Council

5. The Chairman informed Members that CS had pledged that the Administration would demonstrate its determination to co-operate with the Legislative Council (LegCo) with concrete action. CS had remarked, however, that some slip-ups were unavoidable as the team of Directors of Bureaux was still new. CS had emphasized that co-operation of all concerned was important, particularly in the current economic situation.

6. Ir Dr Raymond HO asked if CS had given any specific examples of concrete action he was referring to.

7. The Chairman responded that CS had not given any specific examples. However, as it was the second time that CS had taken the initiative to raise the subject matter with her, she believed that CS was trying to convey a clear message that the Administration was determined to co-operate with the Council.

8. Ir Dr Raymond HO said that although CS repeatedly emphasized that the Administration was determined to co-operate with LegCo, little improvement had been made. He hoped that the Administration would really demonstrate its determination with concrete action, and that all principal officials, and not just CS, were fully committed to doing so.

9. Ms Emily LAU said that it was important for the Administration to demonstrate its determination to co-operate with LegCo not with words, but with concrete action.

10. Mr Albert CHAN said that the relationship between the Administration and LegCo was in fact getting worse, and the Directors of Bureaux were showing less and less respect for LegCo. Mr CHAN pointed out, for instance, that none of the responsible Directors of Bureaux attended the meeting of the Public Works Subcommittee (PWSC) on 16 October 2002. Mr CHAN doubted whether the Directors of Bureaux, would personally attend meetings of Panels and other committees, and whether the Administration would brief Members first when it had important announcements to make.

11. Miss Margaret NG said that CS should be asked to explain why the Directors of Bureaux concerned did not attend the PWSC meeting on 16 October 2002. She further said that when the proposed accountability system

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for principal officials was presented to the Council for consideration, the Administration had explained that the role and responsibilities of principal officials included, inter alia, attending meetings of the Council and its committees. Miss NG considered that the issue was not just about the relationship between the Executive and the Legislature, but the accountability of the Government of the Hong Kong Special Administrative Region (HKSAR) to LegCo.

12. Mr Martin LEE said that the Government of the HKSAR must be accountable to LegCo as this was clearly stated in the Basic Law.

13. Ir Dr Raymond HO pointed out that prior to the implementation of the accountability system for principal officials, the former Secretary for Works and Secretary for Planning and Lands normally attended the meetings of PWSC. However, only the Permanent Secretaries, and not the Directors of Bureaux concerned such as the Secretary for the Environment, Transport and Works, attended the PWSC meeting on 16 October 2002. Dr HO added that there was a heated discussion at the meeting as some members were unhappy that none of the responsible Directors of Bureaux attended the meeting.

14. Mr James TIEN said that his understanding was that the Directors of Bureaux would attend meetings of Panels and other committees of the Council. However, he was not sure whether meetings of committees of the Council included meetings of the two subcommittees under the Finance Committee, i.e. PWSC and the Establishment Subcommittee.

15. The Chairman said that she would relay Members' views and queries to CS.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 11 October 2002

(LC Paper No. LS 5/02-03)

16. Presenting the report, the Legal Adviser said that the four items of subsidiary legislation gazetted on 11 October 2002 included the Commodities Trading (Trading Limits and Position Limits) (Amendment) (No. 2) Rules 2002, the Securities (Exchange-Trade Stock Options) (Amendment) Rules 2002, and the Securities (Miscellaneous) (Amendment) Rules 2002. The Legal Adviser further said that no difficulty in the legal or drafting aspects of these three items of subsidiary legislation was observed.

17. Referring to the Securities (Miscellaneous) (Amendment) Rules 2002,

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the Legal Adviser added that draft subsidiary legislation containing similar provisions had been considered by the Subcommittee on draft subsidiary legislation to be made under the Securities and Futures Ordinance.

18. As regards the remaining item of subsidiary legislation, the Drug Trafficking and Organized Crimes (Amendment) Ordinance 2002 (26 of 2002) (Commencement) Notice 2002, the Legal Adviser said that the Commencement Notice appointed 1 January 2003 as the day on which the Ordinance would come into operation. The Legal Adviser further said that the Ordinance was enacted after the relevant Bill had been scrutinized by a Bills Committee. The Bill sought to increase the effectiveness of the Hong Kong anti-money laundering legislation.

19. Members did not raise any queries on these four items of subsidiary legislation.

20. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 13 November 2002, or 4 December 2002 if extended by resolution.

IV. Business for the Council meeting on 30 October 2002

(a) Questions

(LC Paper No. CB(3) 51/02-03)

21. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 30 October 2002.

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

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

(c) Government motion

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

(d) Members' motions

(i) Motion on "Transport needs of people with disabilities"

(Wording of the motion issued vide LC Paper No. CB(3) 54/02-03 dated 16 October 2002.)

(ii) Motion on "Developing renewable energy resources"

(Wording of the motion issued vide LC Paper No. CB(3) 61/02-

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03 dated 17 October 2002.)

24. The Chairman said that the above motions would be moved by Mr LEUNG Yiu-chung and Dr LAW Chi-kwong respectively, and the wording of the motions had been issued to Members.

25. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 23 October 2002.

V. Report of Bills Committee and subcommittee

(a) Position report on Bills Committees/subcommittees
(LC Paper No. CB(2) 82/02-03)

26. The Chairman said that there were 15 Bills Committees and six Subcommittees in action, as well as four Bills Committees on the waiting list.

27. The Chairman pointed out that some Bills Committees were making very slow progress. The Chairman further said that the Chairmen of Bills Committees should closely monitor the progress of bills under their consideration, and report to the House Committee should there be the need to hold a bill in abeyance, so that the slot could be taken up by a Bills Committee on the waiting list.

28. Miss Margaret NG said that sometimes a long time was taken by the Administration to respond to issues or queries raised by members of a Bills Committee. Miss NG further said that to help expedite the scrutiny of a bill, the Administration should clearly explain the policy aspects when briefing the relevant Panel on a legislative proposal, so that such policy issues needed not be re-visited by the Bills Committee concerned.

29. Ms Emily LAU pointed out that some deputations attending a recent meeting of the Bills Committee on the Companies (Amendment) Bill 2002 had expressed concern that since the "incident" of the Intellectual Property (Miscellaneous Amendments) Bill 2000, LegCo Members might have been over-cautious in scrutinising bills and unduly delay the enactment of bills. Ms LAU further said that Members should avoid giving the public such an impression. If any delay in scrutinising a bill was due to late response from the Administration, the relevant Bills Committee should request the Administration to expedite action.

30. Mr James TIEN said that it was unavoidable for a Bills Committee to discuss the policy aspects of a bill even though they had been discussed by the relevant Panel. This was because members of the Bills Committee concerned

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were not necessarily members of the relevant Panel. Mr TIEN further said that to help expedite the work of Bills Committees, those public officers attending meetings of Bills Committees should be of a sufficiently senior level, so that decisions could be made at the relevant meeting without the need for them to go back to the Bureau to seek instructions and then revert to the Bills Committee.

31. Mr Martin LEE said that the Administration should not forget that it was LegCo's duty to scrutinise legislative proposals carefully. Mr LEE further said that the slow progress of some Bills Committees was caused by the long time taken by the Administration to respond to concerns and queries raised by the Bills Committee concerned.

(b) Report of the Subcommittee to study issues relating to the Fugitive Offenders (Sri Lanka) Order
(LC Paper No. CB(2) 78/02-03)

32. Mr James TO Kun-sun, Chairman of the Subcommittee, said that one of the fundamentals of any surrender of fugitive offenders agreements was that a fugitive offender would receive a fair trial in the requesting jurisdiction. Members of the Subcommittee had suggested that when negotiating with other jurisdictions bilateral agreements for the surrender of fugitive offenders in future, the Administration should conduct a general review of the human rights situation of the requesting jurisdiction.

33. Regarding the human rights situation in Sri Lanka, Mr James TO informed Members that the Administration had provided the Subcommittee with the concluding observations made in the reports of the United Nations bodies after their visit to Sri Lanka. In accordance with the cease-fire agreement which came into force on 23 March 2002, the Government of Sri Lanka had undertaken to refrain from making arrests or detaining suspects under the provisions of the Prevention of Terrorism Act. Any necessary arrests would be made pursuant to the normal criminal law. In the view of the Administration, there was no evidence that a fugitive returned from Hong Kong to Sri Lanka would not receive a fair trial.

34. Referring to paragraphs 10 to 13 of the report, Mr James TO said that a deputation had queried why the agreement to the arrangements for the surrender of fugitive offenders signed by the Government of the HKSAR and the Government of Sri Lanka only provided the Government of the HKSAR the right to refuse the surrender of the nationals of the People's Republic of China (PRC). The deputation had suggested that a provision to permit refusal of the surrender of HKSAR permanent residents should be included, as they might not necessarily be PRC nationals.

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35. Mr TO further said that the Administration had explained that it had not been a practice for the HKSAR to refuse the surrender of its permanent residents. The provision concerning the right to refuse the surrender of PRC nationals was intended to be used very rarely. The main reason for such a provision in the agreement was to cover a situation in future where arrangements existed to permit the rendition of persons from the HKSAR to the Mainland, and both the PRC and Sri Lanka had jurisdiction concurrently over the same offence. Such a provision would enable priority to be given to a Mainland request for the rendition of a Mainland Chinese national over a request from Sri Lanka for the extradition of the same person for the same offence.

36. Mr James TO added that the majority of members considered that the Sri Lanka Order was substantially in conformity with the Fugitive Offenders Ordinance (Cap. 503). The Subcommittee did not object to the re-gazettal of the Order.

VI. Election of Members of The Legislative Council Commission
(*LC Paper No. AS 14/02-03*)

37. The Chairman said that at the meeting on 4 October 2002, Members agreed to hold the election of The Legislative Council Commission at the House Committee meeting on 18 October 2002.

38. The Chairman said that 10 nominations had been received by the deadline for nomination. As the number of nominations was equal to the number of Members to be elected to the Commission, the Chairman declared the following Members elected members of the Commission -

Hon NG Leung-sing
Hon Margaret NG
Hon HUI Cheung-ching
Hon Bernard CHAN
Hon Howard YOUNG
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing
Dr Hon LAW Chi-kwong
Hon Henry WU King-cheong
Hon IP Kwok-him

39. The Chairman said that the term of office of these 10 members would be for one year or until the next election.

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VII. Election of a Member to fill the vacancy in the Public Accounts Committee
(LC Paper No. PAC 1/02-03 issued vide LC Paper No. CB(2) 35/02-03 dated 9 October 2002)
(Paragraph 22 of the minutes of the 1st House Committee meeting on 11 October 2002)

40. The Chairman said that Members agreed at the last meeting that an election would be held on 18 October 2002 to fill the vacancy arising from Mr Fred LI's withdrawal from the Public Accounts Committee (PAC).

41. The Chairman invited nominations from Members in accordance with the election procedure as stated in paragraph 4 of LC Paper No. PAC 1/02-03.

42. Dr YEUNG Sum nominated Mr SIN Chung-kai. Mr James TIEN said that he supported the nomination as the House Committee had agreed that Members should have regard for the need to ensure that PAC's membership was broadly balanced and representative of the Council. Mr SIN accepted the nomination.

43. As there were no other nominations, the Chairman declared Mr SIN Chung-kai elected a member of PAC.

VIII. Any other business

Proposed invitation to the Financial Secretary (FS) to attend a meeting of the House Committee to explain the funding policy on public works project

(Letter dated 16 October 2002 from the Chairman of the Public Works Subcommittee to the Chairman of the House Committee)

44. Referring to his letter, Ir Dr Raymond HO said that at the PWSC meeting on 16 October 2002, members expressed concern about the remarks made recently by FS regarding the need to review the priority order of public works projects. Members noted that according to FS's remarks, the primary consideration in prioritizing public works projects was whether and to what extent individual projects would benefit the Hong Kong economy. Dr HO further said that members would like to know whether this represented a change in Government's existing policy on public works projects, and how such a change would affect the implementation of certain public works project which were required to meet the needs of the community, but would not directly generate economic benefits.

45. Dr HO said that members of PWSC considered it necessary for FS to clarify his remarks as well as to explain whether there had been a change in

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Government's policy on public works projects, with particular regard to prioritizing projects for funding allocation. Dr HO added that as the subject matter straddled a number of policy areas, members of PWSC had suggested that FS should be invited to attend a meeting of the House Committee.

46. Referring to FS's letter dated 17 October 2002 tabled at the meeting, Dr HO informed Members that FS had just provided a response to the concerns and queries raised by PWSC. Dr HO said that in his letter, FS had pointed out that whether individual projects would generate economic benefits was not the only consideration in prioritizing public works projects, and that it was the normal practice to review the projects on the Public Works Programme. Moreover, the average annual funding earmarked for public works projects for the period from 2002-03 to 2006-07 remained to be in the region of \$29.4 billion. Dr HO further said that FS had also explained that his remarks on the funding policy of public works projects were made in response to press enquiries.

47. Dr HO further said that as the Panel on Financial Affairs (FA Panel) had already invited FS to attend a special meeting on 25 October 2002 to discuss the fiscal deficit and budgeting of Government expenditure for the years from 2003-2004 to 2006-2007, he personally considered that FS should be asked to take the opportunity to also explain Government's funding policy on public works projects.

48. Mr Albert CHAN expressed strong dissatisfaction that FS had said in paragraph 3 of his letter that some Members were concerned about certain public works projects being "dropped" from the Public Works Programme. Mr CHAN said that FS was twisting the facts as it was FS himself, and not Members, who had raised the need to review the priority order of public works projects in the first place. Mr CHAN pointed out that prioritizing public works projects on the basis of whether they would generate economic benefits was something new. It was therefore contradictory for FS to state in paragraph 4 of his letter that it was the existing practice to do so.

49. Mr CHAN further said that as the subject matter did not just concern the FA Panel, FS should be invited to attend a meeting of the House Committee to explain Government's funding policy on public works projects as well as to tell Members which projects would be deferred or "dropped" from the Public Works Programme completely.

50. Ms Emily LAU agreed with Mr Albert CHAN that FS's letter did not provide a satisfactory response and contained contradictory statements. Referring to the last paragraph of FS's letter, Ms LAU further said that it seemed that FS was now holding the media responsible for his making the remarks. She doubted whether the press would ask questions on the need to

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review the priority order of public works projects, if FS had not raised the subject matter in the first place. Ms LAU requested the LegCo Secretariat to obtain the relevant press statements made by FS for Members' information. Ms LAU added that she considered the meeting of the FA Panel scheduled for 25 October 2002 an appropriate forum for FS to explain Government's funding policy on public works projects.

51. Mr IP Kwok-him said that he had no strong views as to whether FS should attend a meeting of the FA Panel or the House Committee, as long as FS would have an opportunity to explain Government's funding policy on public works projects.

52. The Chairman said that it was the existing practice for FS to be invited to brief the FA Panel on the macro-economic situation of Hong Kong on a regular basis. As the FA Panel would discuss the fiscal deficits and the budgeting of Government expenditure for years from 2003-2004 to 2006-2007 at its special meeting on 25 October 2002, she considered it appropriate to ask FS to take the opportunity to also explain Government's funding policy on public works projects. The Chairman informed Members that the item was scheduled for discussion at 9:30 am.

53. Mr Albert CHAN said that he did not object to the proposed arrangement. However, he was concerned whether there would be adequate time for discussion since the meeting would end around 10:30 am. Ir Dr Raymond HO shared Mr CHAN's concern.

54. The Chairman suggested that the meeting could be extended to 10:45 am. The Chairman added that the FA Panel could always decide to hold further discussion with FS on the subject matter, after the meeting on 25 October 2002.

55. The Chairman informed Members that the Panel on Planning, Lands and Works had invited the Secretary for the Environment, Transport and Works to give a briefing on her work plan, and also provide information on the public works projects to be included in the Public Works Programme, at its meeting on 8 November 2002. The Chairman added that the item was scheduled for discussion at 9:15 am.

56. There being no further business, the meeting ended at 3:15 pm.

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