

立法會  
*Legislative Council*

LC Paper No. CB(2) 2302/02-03

Ref : CB2/H/5

**House Committee of the Legislative Council**

**Minutes of the 27th meeting  
held in the Legislative Council Chamber  
at 4:48 pm on Friday, 30 May 2003**

**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  
Dr Hon David CHU Yu-lin, JP  
Hon Cyd HO Sau-lan  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon LEE Cheuk-yan  
Dr Hon LUI Ming-wah, 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 Bernard CHAN, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon LEUNG Yiu-chung  
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 YEUNG Yiu-chung, BBS  
Hon LAU Kong-wah  
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 LAW Chi-kwong, JP  
Hon TAM Yiu-chung, GBS, JP  
Dr Hon TANG Siu-tong, 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 LAU Ping-cheung  
Hon Audrey EU Yuet-mee, SC, JP  
Hon MA Fung-kwok, JP

**Members absent :**

Hon Martin LEE Chu-ming, SC, JP  
Hon Eric LI Ka-cheung, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Hon CHAN Yuen-han, JP  
Hon CHAN Kam-lam, JP  
Hon SIN Chung-kai  
Hon LAU Chin-shek, JP  
Hon LAU Wong-fat, GBS, JP  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon Abraham SHEK Lai-him, 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
Ms Pauline NG	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
Mrs Vivian KAM	Principal Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Monna LAI	Assistant Legal Adviser 7
Miss Betty MA	Senior Assistant Secretary (2)1

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**I. Confirmation of the minutes of the 26th meeting held on 23 May 2003**  
(*LC Paper No. CB(2) 2206/02-03*)

The minutes were confirmed.

**II. Matters arising**

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

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Special House Committee meeting with CS

2. The Chairman said that she had informed CS that the meeting would be held on 6 June 2003 at 2:30 pm, and the topics scheduled were "Future Timetable for Delivering the Policy Address and the Budget" and "Work of Team Clean". The Chairman added that she had asked that discussion papers, if any, be forwarded to the Legislative Council (LegCo) Secretariat as early as possible.

3. The Chairman further said that CS had responded that as correspondence had been exchanged between the Council and the Administration on the former topic, it would not be necessary to provide a discussion paper. The Administration would consider whether a paper would be provided in respect of the latter. The Chairman pointed out that since her meeting with CS, the Administration had released the Interim Report to Improve Environmental Hygiene in Hong Kong and CS had made a statement on the Interim Report at the Council meeting on 28 May 2003.

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4. The Chairman informed Members that the LegCo Secretariat would prepare background papers on the two discussion topics.

**(b) Air Pollution Control (Emission Reduction Devices for Vehicles) Regulation**

*(Paragraphs 41 to 45 of the minutes of the 26th House Committee meeting on 23 May 2003)*

*[Previous paper: Paragraphs 26 to 31 of LC Paper No. LS 112/02-03 issued vide LC Paper No. CB(2) 2175/02-03 dated 22 May 2003]*

5. The Chairman said that at the last House Committee meeting, Members agreed that Ms Miriam LAU would first raise the concerns and problems of the transport trade with the Administration directly. If they could not be resolved satisfactorily, the House Committee would consider forming a subcommittee at this meeting.

6. The Chairman said that Ms Miriam LAU had advised that she had discussed with the transport trade and a subcommittee was not necessary.

7. Members did not raise further queries on the Regulation.

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

**Legal Service Division report on subsidiary legislation gazetted on 23 May 2003 and tabled in Council on 28 May 2003**

*(LC Paper No. LS 105/02-03)*

8. The Legal Adviser said that five items of subsidiary legislation were gazetted on 23 May 2003 and tabled in Council on 28 May 2003.

9. The Legal Adviser said that the first four items of subsidiary legislation, namely, the Waterworks (Reduction of Water Charge) Regulation 2003, the Sewage Services (Reduction of Sewage Charge and Trade Effluent Surcharge) Regulation 2003, the Rating (Exemption) Order 2003 and the Tax Exemption (2001 Tax Year) Order, were part of the measures which the Administration introduced to assist Hong Kong to tide over the current economic difficulties and to revive the economy once the Severe Acute Respiratory Syndrome (SARS) became under control. The Legal Adviser added that the measures had taken effect on 23 May 2003.

10. The Legal Adviser further said that when the Panel on Financial Affairs was briefed on the relevant proposals at the special meeting held on 23 April 2003, members were informed that apart from the relief measures that required implementation by subsidiary legislation, the Administration

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would waive certain fees or charges through the exercise of existing statutory powers. The Legal Adviser added that in response to the enquiries made by the Legal Service Division, the Administration had provided a list of the relief measures to be implemented by means of existing statutory power, which was in Appendix 1 to the report.

11. The Legal Adviser explained that the Telecommunications (Carrier Licences) (Amendment) Regulation 2003 amended Part 1 of Schedule 3 to the Telecommunications (Carrier Licences) Regulation to reduce the annual fixed fees for fixed carriers licences which permitted provision of only external services from \$1,000,000 to \$500,000.

12. The Legal Adviser said that the Regulation would come into operation on a date to be appointed by the Telecommunications Authority by notice published in the Gazette.

13. The Legal Adviser pointed out that the Panel on Information Technology and Broadcasting had not been briefed on the proposal. The Legal Adviser added that the Legal Service Division had sought clarification from the Administration on the results of consultation on the proposed fee reduction, and the Administration had provided a detailed reply which was in Appendix 2 to the report.

14. Members did not raise any queries on the above items of subsidiary legislation.

15. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 25 June 2003, or the first meeting of LegCo in the next session if extended by resolution.

**IV. Business for the Council meeting on 11 June 2003**

**(a) Questions**  
(*LC Paper No. CB(3) 673/02-03*)

16. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 11 June 2003.

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

**Landlord and Tenant (Consolidation) (Amendment) Bill 2003**

17. The Chairman said that the above Bill would be introduced into the Council on 11 June 2003 and considered by the House Committee on 13 June

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(c) **Government motions**

(i) **Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under section 6(3) of the Betting Duty Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 664/02-03 dated 22 May 2003.)

*(LC Paper No. LS 116/02-03)*

18. The Legal Adviser said that the proposed resolution sought to amend section 6(1)(b) of the Betting Duty Ordinance to increase the rate of duty on exotic horse racing bets from 19% to 20%.

19. The Legal Adviser further said that the proposed resolution was legally in order.

(ii) **Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under section 3(4) of the Betting Duty Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 663/02-03 dated 22 May 2003.)

*(LC Paper No. LS 117/02-03)*

20. The Legal Adviser said that the proposed resolution sought to amend section 3(3)(b) of the Betting Duty Ordinance to lower the percentage of payout for exotic horse racing bets from 76% to 75%, and the amendment was connected with the proposed amendment to increase the duty on exotic horse racing bets from 19% to 20%.

21. The Legal Adviser further said that the proposed resolution was legally in order.

22. Members did not raise objection to the Secretary for Financial Services and the Treasury moving the above two proposed resolutions at the Council meeting on 11 June 2003.

(d) **Members' motions**

(i) **Motion on "Resumption of private streets"**

(Wording of the motion issued vide LC Paper No. CB(3) 680/02-03 dated 29 May 2003.)

(ii) **Motion on "Asia's World City"**

(Wording of the motion issued vide LC Paper No. CB(3) 681/02-03 dated 28 May 2003.)

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23. The Chairman said that the above motions would be moved by Mr IP Kwok-him and Mr Abraham SHEK respectively and the wording of the motions had been issued to Members.

24. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 3 June 2003.

**V. Advance information on business for the Council meeting on 18 June 2003**

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

**Adoption (Amendment) Bill 2003**

25. The Chairman said that the above Bill would be introduced into the Council on 18 June 2003 and considered by the House Committee on 20 June 2003.

**VI. Report of Bills Committee and subcommittee**

**(a) Position report on Bills Committees/subcommittees**  
(LC Paper No. CB(2) 2220/02-03)

26. The Chairman said that there were 15 Bills Committees and 10 subcommittees in action as well as nine Bills Committees on the waiting list.

**(b) Report of the Subcommittee to study the draft Ocean Park Bylaw**  
(LC Paper No. CB(2) 2239/02-03)

27. Mr James TO, Chairman of the Subcommittee, reported that the Subcommittee had completed scrutiny of the draft Ocean Park Bylaw, and the deliberations were detailed in the report.

28. Mr James TO informed Members that the Administration and the Ocean Park Corporation had agreed to propose amendments to the Bylaw, which fully addressed members' concerns, and that the Subcommittee did not object to the gazettal of the Bylaw.

29. Mr Henry WU declared that he was a Director of the Board of the Ocean Park Corporation. He said that he would like to thank the Subcommittee for its work in studying the draft Ocean Park Bylaw.



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**VII. Report of the Panel on Health Services on its proposal for a select committee to be appointed to inquire into the handling of the SARS outbreak**

*(LC Paper No. CB(2) 2214/02-03)*

*(Letter dated 21 May 2003 from the Chairman of the Amoy Gardens Owners Joint Committee issued vide LC Paper No. CB(2) 2188/02-03 dated 23 May 2003 also attached)*

30. Dr LO Wing-lok, Chairman of the Panel on Health Services (HS Panel), said that the paper sought the House Committee's support for the Panel's proposal that LegCo should appoint a select committee to inquire into the handling of the SARS outbreak by the Government and the Hospital Authority (HA), and to conduct a comprehensive review of the whole process.

31. Dr LO informed Members that since the outbreak of SARS in early March 2003, the HS Panel had been holding weekly special meetings to monitor the work of the Administration and HA in handling the SARS outbreak. Dr LO pointed out that Members had raised a lot of concerns and queries at these meetings. While the Administration and HA had addressed some of the concerns and queries, many others remained unanswered. Dr LO further said that the outbreak of SARS had brought about serious impacts on the local community and had claimed many lives. LegCo should conduct an independent inquiry into the handling of the outbreak, given its constitutional role of monitoring Government's performance. Dr LO urged Members to support the Panel's proposal.

32. Dr YEUNG Sum said that Members belonging to the Democratic Party (DP) supported the Panel's proposal. Dr YEUNG pointed out that there were a number of important questions to which the Administration must provide satisfactory answers. These questions included at which point the Administration considered that there was an outbreak of SARS in the community, when it decided to take the various control measures, and whether the hospital cluster arrangement was working effectively. Dr YEUNG further said that although the Chief Executive (CE) had announced the setting up of a SARS Experts Committee comprising international and local experts to thoroughly review the Government's work in containing SARS, there were serious doubts about the appropriateness of the Experts Committee being chaired by the Secretary for Health, Welfare and Food (SHWF). This was because SHWF was the main decision-maker in dealing with the SARS outbreak, and he was the key person in establishing HA.

33. Dr YEUNG Sum said that some Members had expressed reservations as to whether the proposed select committee had the expertise to understand the complex medical issues involved. Dr YEUNG pointed out that most members of the select committees appointed by the Council in the past and the Bills Committees set up by the House Committee were not experts in the

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relevant fields, but this had not prevented Members from participating in the work of these committees. Dr YEUNG added that Members could seek the advice of medical professionals and experts, if necessary. He believed that LegCo was fully capable of carrying out a thorough investigation and making independent judgement, if a select committee was appointed.

34. Dr YEUNG Sum informed Members that according to the findings of a survey carried out by DP, over 80% of the respondents were in favour of an independent inquiry into the handling of the SARS outbreak, and the majority of the respondents considered that the inquiry should be conducted by LegCo. Dr YEUNG said that the Experts Committee lacked credibility as it was chaired by the very person whose decisions were the subject of the review. Dr YEUNG further said that if the Government refused to conduct an independent inquiry into the handling of the SARS outbreak, then the setting up of a select committee by LegCo was the only option. He added that the proposed select committee should aim at finding out the facts first, and a decision on whether any persons should be held responsible could be followed up later.

35. Referring to the letter dated 21 May 2003 from the Chairman of the Amoy Gardens Owners Joint Committee and family members of some of the residents who had died of SARS, Mr Fred LI urged Members to support the Panel's proposal. Mr LI pointed out that 43 residents of Amoy Gardens had died of SARS, and their family members had expressed strong dissatisfaction about the Government's handling of the outbreak. They felt that the Government did not care about the residents of Amoy Gardens as no senior government official had, in the past two months, sent any letter of condolences to them or paid a visit to Amoy Gardens. Mr LI said that the family members were unconvinced that the Experts Committee, under the chairmanship of SHWF, could conduct the review in an impartial and fair manner, and strongly urged that LegCo should appoint a select committee to inquire into the handling of the SARS outbreak.

36. Mr Fred LI further said that over 300 residents of Amoy Gardens had been infected with SARS, which was the largest number of SARS cases for a single estate. LegCo should find out the truth about the outbreak so as to do justice to the SARS victims and those who had lost their family members in the outbreak.

37. Mr TSANG Yok-sing said that Members belonging to the Democratic Alliance for Betterment of Hong Kong (DAB) understood why the Panel had put forward the proposal and the feelings of the residents of Amoy Gardens. Mr TSANG further said that although the spread of SARS was now under control, the battle against the disease was not yet over. The most pressing task for the Government and HA was to assist the Experts Committee in completing the review of the management and control of the outbreak. This

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was to ensure that Hong Kong's public healthcare system could be better prepared to handle any further outbreak which, as predicted by some experts, could occur in winter.

38. Mr TSANG pointed out that if LegCo was to set up a select committee right away to inquire into the handling of the SARS outbreak, the government officials concerned, senior staff of HA as well as some of the frontline healthcare workers would unavoidably have to attend the hearings of the select committee to give evidence. This would be a burden to the officials and healthcare workers, who already had a lot of work to do in the on-going battle against SARS. Mr TSANG further pointed out that as the work of a select committee would normally include finding out whether any person(s) should be held responsible for the incident or matter under investigation, those appearing before a select committee to give evidence would be very cautious in order not to place themselves in a disadvantageous position. Mr TSANG expressed concern that the work of the Experts Committee might be affected as a result, as the persons concerned would be very cautious in providing information not only to the select committee but also to the Experts Committee.

39. Mr TSANG considered that the present priority was for the Experts Committee to complete its review. It was not the appropriate time for LegCo to set up a select committee to inquire into the handling of the SARS outbreak, and Members belonging to DAB did not support the Panel's proposal.

40. Ms Cyd HO said that apart from the Experts Committee appointed by CE, HA would also conduct an investigation into the handling of the SARS outbreak. While she had no objection to these internal reviews, the role of those who were heavily involved in the decision-making processes should be limited to providing information and not participating in analyzing the information. This was to ensure that the recommendations to be made by these two reviews were impartial. Ms HO added that LegCo's inquiry could proceed in parallel with these two reviews, and to save the time and efforts of the healthcare workers, they could, for instance, be asked to provide information on the same occasion. After collecting the information, these committees would go about their deliberation and analysis separately.

41. Ms Cyd HO further said that CE had stated that the work of the Experts Committee was to focus on the facts of the outbreak, and not whether any persons were at fault. Ms HO considered that CE had over-simplified the matter. Ms HO pointed out that in establishing what happened, the investigation would have to look at whether decisions and judgement had been wrongly made, and by whom were they made. Ms HO stressed that to help prevent future outbreaks, an independent inquiry should be conducted by LegCo to find out the truth. Whether any persons should be held responsible would become clear upon the completion of the inquiry. Ms HO added that

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Members were not always finding faults with the Administration. She pointed out that at the special meetings of the HS Panel held to discuss the handling of the SARS outbreak, Members had offered a lot of constructive views and suggestions, and some of them had been adopted by the Administration.

42. Ms Audrey EU said that an independent investigation should be conducted into the Government's handling of the SARS outbreak given the seriousness of the matter, and there was no substitute for LegCo taking on the investigation. Ms EU enquired about the scope of work of the proposed select committee, and the consequence of the proposed select committee not finishing its work within the current LegCo term.

43. The Secretary General advised that Rules 78(4) and 78(5) of the Rules of Procedure were relevant. The Secretary General explained that Rule 78(4) stipulated that "a select committee shall, as soon as it has completed consideration of the matter or bill referred to it, report to the Council thereon and the committee shall thereupon be dissolved. If the committee is of the opinion that it will not be able to complete consideration of the matter or bill before the end of a term it shall so report to the Council". As for Rule 78(5), it stipulated that "at the end of a term every select committee of the Council shall be dissolved".

44. Responding to Ms Audrey EU's enquiry, Dr LOK Wing-lok said that he personally considered that the immediate task of the proposed select committee was to inquire into the handling of SARS outbreak in the context of Hong Kong's public healthcare system and environmental hygiene, in order to prevent future outbreaks. Dr LO further said that the proposed select committee could examine the role of the decision-makers in handling the SARS crisis at a later stage.

45. Mr Michael MAK concurred with Dr LO. Mr MAK said that the select committee should examine whether there were any shortcomings in existing policies or the Administration's decision-making process, with a view to learning lessons from past mistakes. The proposed select committee could give priority to inquiring into specific incidents, e.g. the infections in the Prince of Wales Hospital and the outbreak at Amoy Gardens. Mr MAK added that this was a pressing task as a number of experts had predicted that another outbreak could possibly occur later in the year.

46. Ms Audrey EU wondered whether the proposed select committee would have to work through the summer recess in order to complete its work before another possible outbreak later in the year.

47. Dr LO Wing-lok said that the Panel had not discussed the details of how the select committee, if appointed, would proceed with its work. Dr LO

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further said that a number of experts had predicted that it was possible that another outbreak would occur around October this year. Most members of the HS Panel therefore considered that the select committee should start its work as soon as possible, in order that the review on the territory's public healthcare system and environmental hygiene could be completed before the end of this year.

48. Dr TANG Siu-tong said that he wished to offer his condolences to the family members of those who had died of SARS, but it was not the right time for LegCo to conduct an inquiry into the handling of the outbreak. Dr TANG pointed out that as SARS was a new virus and little was known about its mode of transmission and treatment, it was difficult to say whether any persons were at fault in the handling of the outbreak. Dr TANG said that he supported the appointment of the Experts Committee by CE as a LegCo select committee would take longer time than the Experts Committee to identify ways to improve the public healthcare system. Dr TANG further said that the medical and healthcare workers should focus their time and attention on combating the disease, and not preparing themselves to give evidence to the select committee.

49. Dr TANG added that if after the Experts Committee had published its report and Members found problems with it, Members could consider requesting CE to appoint an independent inquiry chaired by a judge to inquire into the handling of the SARS outbreak.

50. Dr YEUNG Sum said that irrespective of their political stance, Members had always upheld the principle that in dealing with Council business, they should avoid conflict of interest. Dr YEUNG reiterated that there was clearly conflict of interest and role for SHWF to chair the Experts Committee, as SHWF was the key person responsible for establishing HA and he was also the main decision-maker in handling the SARS outbreak. Dr YEUNG found it difficult to understand why some Members considered the arrangement acceptable.

51. Mr Michael MAK declared that he was an employee of HA. Mr MAK said that since the outbreak of SARS in March 2003, a large number of nursing staff had contracted the disease at work. There were incessant complaints about inadequate protective gear, in particular the N95 face masks, and the handling of SARS patients without symptoms. Mr MAK pointed out that the healthcare workers were very concerned about the continued infection of their fellow workers. The HA management had failed to pay attention to the psychological needs of the frontline staff and to provide them with adequate protective gear. Mr MAK said that a small outbreak had occurred recently in North District Hospital. While the frontline healthcare workers were left to risk their lives and work in fear, neither SHWF nor any senior staff of HA had come out to say that they were accountable to the public for

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the handling of the SARS outbreak.

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52. Mr MAK said that he was not asking for "heads to roll". However, there was obviously conflict of interest for SHWF to head the Experts Committee. Mr MAK further said that given its composition, he could not see the Experts Committee having a clear role in pinpointing responsibility and how it could approach the review in an open, independent and transparent manner. Mr MAK strongly urged that Members, including those who were "pro-Administration", to vote according to their conscience and support the proposal of the HS Panel in order to do justice to the 270 persons who had died, the more than 1 700 people who had been infected, and the thousands of healthcare workers who were not given adequate protective gear in the battle against SARS.

53. Mr MAK added that if the Panel's proposal was voted down, he would give notice to move a motion to seek the Council's approval to appoint a select committee to inquire into the handling of the SARS outbreak at the Council meeting on 25 June 2003.

54. Mr LEUNG Yiu-chung said that he found the reasons given by Mr TSANG Yok-sing for not supporting the proposal of the HS Panel unconvincing. Mr LEUNG pointed out that if the proposed select committee would be a burden to the government officials and healthcare workers in combating SARS, the appointment of SHWF as Chairman of the Experts Committee would equally distract him from his work in the battle against the disease. He saw no reasons why SHWF should take up the appointment.

55. Mr LEUNG Yiu-chung said that the purpose of setting up a select committee was to find out, through an open and independent inquiry, the truth and what went wrong in the handling of the outbreak. Mr LEUNG further said that one should not fear such an inquiry, unless one was afraid that the inquiry would expose blunders and mistakes made.

56. Miss Margaret NG said that the SARS epidemic was a very serious matter, and there should be an independent, open and thorough investigation into the handling of the outbreak. Miss NG further said that she supported the review to be conducted by the Experts Committee, but would only regard the review as the first step of a thorough investigation. Given the limited scope of the review and conflict of interest of SHWF chairing the Experts Committee, a Commission of Inquiry or a select committee should be appointed. Miss NG added that personally, she preferred the setting up of a Commission of Inquiry to a select committee. However, if CE refused to appoint a Commission of Inquiry, then LegCo would have to appoint a select committee to conduct the inquiry.

57. Miss NG said that she was not sure whether it was the appropriate time for LegCo to consider appointing a select committee, as the recommendations of the Experts Committee could save some of the work of the select



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committee. Miss NG suggested that should the House Committee vote against the Panel's proposal at today's meeting, Members should reconsider the appointment of a select committee, after the Experts Committee had completed its review. Dr LO Wing-lok expressed support for Miss NG's suggestion that Members should reconsider the proposal at an appropriate time in the future, if it was voted down at today's meeting.

58. Ms Emily LAU expressed agreement with Mr Fred LI's earlier remarks that the Administration did not care about the residents of Amoy Gardens, and the anger of the family members of the deceased was clearly reflected in their letter dated 21 May 2003 to the Chairman of the House Committee. Ms LAU said that the Administration owed them a full account of the SARS outbreak at Amoy Gardens, and that an independent inquiry must be carried out. Ms LAU further said that she also shared Dr YEUNG Sum's view that there was clearly conflict of interest and role for the Experts Committee to be chaired by SHWF. The Amoy Gardens residents had stated in their letter that they found this arrangement lacking in fairness and credibility, and therefore totally unacceptable.

59. Ms LAU said that Members had always attached great importance to the avoidance of conflict of interest in dealing with Council business. Ms LAU pointed out that four out of the seven members of the Public Accounts Committee had withdrawn from the discussions relating to the remuneration of university staff because they were serving or former Court/Council members of the universities concerned. Ms LAU further said that the SARS epidemic was probably the most serious incident in the history of Hong Kong. Either a Commission of Inquiry should be appointed by CE or a select committee should be set up by LegCo to inquire into the handling of the outbreak. Ms LAU added that since CE had only appointed an Experts Committee which was chaired by SHWF, she could not see how LegCo could be answerable to the public, if it failed to conduct an inquiry into the outbreak.

60. Mr James TIEN said that Members had deepest sympathies for those who had died or had been infected with SARS. While he agreed that there was a need to inquire into the handling of the outbreak and to do justice to the SARS victims and the healthcare workers, the whole incident should be viewed as a matter which affected people's daily lives, and should not be turned into a political issue by labelling some Members as "pro-Administration".

61. Mr TIEN further said that other than Dr LO Wing-lok, he had doubts as to whether other Members had the necessary medical knowledge to conduct an inquiry, and whether the select committee could complete its work within a few months. Mr TIEN added that he wondered whether LegCo should

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conduct an inquiry, as it might eventually find that some frontline healthcare workers, who were the constituents of Mr Michael MAK, should be held responsible.

62. Mr TIEN said that he believed that the Experts Committee was capable of conducting a thorough investigation within a short period of time, given the expertise of its members. Nevertheless, he shared the view that it was not appropriate for SHWF to head the Experts Committee. Mr TIEN informed Members that when he learnt about the appointment, he had suggested to CE that SHWF's role in the Experts Committee should only be to facilitate the investigation, and he should not participate in the drafting of the report.

63. Mr TIEN said that he shared Miss Margaret NG's view that a decision on whether LegCo should appoint a select committee should be deferred until the report of the Experts Committee was available. Mr TIEN pointed out that when the motion on the setting up of a select committee to inquire into the building problems of public housing estates was considered by the House Committee, he had proposed to defer a decision on the motion pending the reports of the other investigations and studies being conducted by the Administration. When Members belonging to the Liberal Party (LP) found that there were problems with the reports, they supported the setting up of a select committee.

64. Mr Albert HO said that he did not object to the internal review being conducted by the Experts Committee, provided that an independent, objective and open inquiry would follow. However, the public was given the impression that the Administration considered that the review by the Experts Committee would be able to reveal all the facts of the SARS outbreak, and this was totally unacceptable. Mr HO pointed out that Members should respond to the strong call from the community for an independent inquiry to find out the truth about the SARS outbreak.

65. Mr Albert HO said that Mr TSANG Yok-sing had expressed concern that the LegCo inquiry would be a burden to healthcare workers, given that the battle against SARS was still going on. Mr HO asked whether Members belonging to DAB would support the proposal, if a decision on the proposal was deferred until the report of the Experts Committee was available. Mr HO further said that an inquiry into the handling of the outbreak should be considered even though the battle against SARS was not yet over; otherwise Members should not have approved the funding applications put forward by the Administration to the Finance Committee for taking relief measures to revive the economy. Mr HO stressed that it was LegCo's responsibility to provide answers to what actually happened to the victims of the SARS outbreak.

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66. Dr LO Wing-lok said that although the select committee might not be able to complete its work before the end of the current LegCo term, LegCo should not give up its constitutional role of monitoring the Government's work in dealing with such an important crisis. Dr LO further said that the select committee should commence its inquiry and report to the Council on whatever tasks it had managed to complete before the end of the term. It would be a matter for Members of the next term to decide whether they would follow up the outstanding work of the select committee.

67. Dr LO said that he saw no reasons why an inquiry to identify the lessons to be learnt, with a view to preventing the recurrence of similar tragedies in the future, could not be conducted in parallel with the on-going battle against SARS. Dr LO further said that he did not oppose the appointment of the Experts Committee, but its work should only be regarded as part of an overall review of the handling of the outbreak. Dr LO pointed out that the scope of the review of the Experts Committee was limited and it was likely that the international experts would take a macro view and focus on theories, as they were not familiar with the local situation. Nevertheless, the review findings would provide useful background information for any future investigation. Dr LO reiterated that he agreed with Miss NG that even if the proposal of the HS Panel was voted down at today's meeting, Members should reconsider it at some time in the future.

68. Mr LEE Cheuk-yan expressed support for the setting up of a select committee to inquire into the handling of the SARS outbreak by the Government and HA. Mr LEE said that it was the duty of LegCo to monitor the work of the Government. Given that SARS had claimed many lives and the infection had spread to the community, it was important that LegCo should inquire into the matter to find out whether there were shortcomings in existing policies or the decision-making process that had caused the spread of the disease. Mr LEE pointed out that some of the family members of the residents of Amoy Gardens who had died of SARS had demanded an inquiry to find out the truth, and they could not accept that SHWF had been assigned to head a committee to investigate into his own responsibility in the handling of the SARS outbreak. Mr LEE stressed that LegCo had the duty to investigate and to do justice to the SARS victims of Amoy Gardens.

69. Referring to Mr TSANG Yok-sing's earlier comments, Mr LEE Cheuk-yan said that he did not agree that should LegCo set up a select committee to inquire into the matter, the work of the Experts Committee would be affected because the parties concerned might not reveal all the relevant facts to the Experts Committee in order to protect their own interests. Mr LEE pointed out that as the Experts Committee appointed by CE had no powers to call for witnesses to give evidence, the parties concerned could withhold information from the Experts Committee, if they chose to.

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70. Regarding CE's remarks that the objective of the review of the SARS outbreak was fact-finding and not fault-finding, Mr LEE said that it should not be assumed that certain persons would or would not be held responsible, before the investigation took place. Mr LEE was of the view that it was the spirit of the accountability system that the principal officials would be held responsible for their blunders and mistakes.

71. Mr TSANG Yok-sing said that the select committee proposed by the HS Panel seemed to serve multiple purposes. According to the Panel's paper, the select committee aimed to inquire into the handling of the SARS outbreak so that lessons could be learnt from past mistakes, if any. Mr TSANG further said that if the purpose of the select committee was to find out whether there were problems with the present public healthcare system or the decision-making process, there would be no question of the witnesses not revealing all the facts in order to protect their own interests.

72. Mr TSANG Yok-sing further said that according to Mr Michael MAK and some other Members, the purpose of the select committee was to pinpoint responsibility and to do justice to the victims of SARS. Mr TSANG added that, if that was the objective of the select committee, the witnesses would naturally have to consider whether their evidence would incriminate themselves or place themselves in a disadvantageous position.

73. As regards the question of whether there was conflict of interest for SHWF to chair the Experts Committee, Mr TSANG considered that as the Experts Committee was not tasked to pinpoint responsibility, the question of conflict of interest should not arise. Mr TSANG pointed out that as SHWF was the key decision-maker in the public healthcare system, SHWF could take prompt actions to implement any improvement measures proposed by the Experts Committee.

74. Mr TSANG stressed that Members belonging to DAB had never ruled out the possibility of an independent inquiry to pinpoint responsibility in the handling of the SARS outbreak. Such inquiry could be carried out by LegCo or an independent person appointed by CE. However, given the limitation of time and the possibility of another outbreak later in the year, Mr TSANG considered that it was most important that the Experts Committee should start work as early as possible and recommend what improvements should be made to the public healthcare system. Mr TSANG added that based on past experience, it would not be possible for a select committee of LegCo to complete its inquiry in a few month's time.

75. Mr Andrew WONG said that he was in favour of CE appointing a Commission of Inquiry to investigate the handling of the SARS outbreak and

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find out whether any persons should be held responsible. Mr WONG considered that it might not be cost-effective to set up a select committee for the purpose as many Members did not have the necessary medical knowledge to conduct the inquiry. Mr WONG said that as little was known about the virus even at this stage, it was not the time to talk about whether any persons should be held responsible. Mr WONG pointed out that the present priority was for the Experts Committee to find out more about the SARS virus, and to identify more effective ways to treat and control the disease. The inquiry to pinpoint responsibility could be carried out at a later stage after the Experts Committee had completed its work.

76. Referring to Mr TSANG's view on the possibility of an independent inquiry, Mr WONG asked whether Mr TSANG had in mind a timeframe for CE to appoint an independent inquiry for pinpointing responsibility. Mr WONG further said that if the Chairman of the HS Panel moved a motion at this meeting to seek Members' support for the setting up of a select committee, he would move an amendment to the motion to the effect that a select committee or a Commission of Inquiry should be set up in November 2003 to inquire into the handling of the SARS outbreak.

77. Ms LI Fung-ying said that she was a member of the HS Panel and she had voted in favour of the proposal of setting up a select committee to inquire into the handling of the SARS outbreak. Ms LI considered it necessary to find out whether there were problems with the management and control of the disease, as many healthcare workers had been infected and there were still complaints about inadequate protective gear from frontline healthcare workers. Ms LI was concerned whether the existing public healthcare system could cope with another outbreak, if it occurred later in the year.

78. Ms LI further said that she was disappointed and found it regrettable that SHWF was appointed to head the Experts Committee set up by the Government. However, she accepted that if LegCo was to set up a select committee at the same time, SHWF and the healthcare workers would be overburdened, as they would have to provide information to both committees, and this would adversely affect their work in tackling the SARS problem. Ms LI wondered whether it was possible for LegCo to defer the setting up of a select committee until after the Experts Committee had completed its work. Ms LI added that LegCo could then follow up the specific areas covered in the Experts Committee's report.

79. Mr NG Leung-sing was of the view that Members should be forward-looking as he believed that the healthcare workers who had sacrificed their lives would want to see concerted efforts in the community in the battle against SARS. Mr NG said that Members should not seek to add burden to the healthcare workers, as there were already insufficient healthcare staff to

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combat SARS.

80. Mr NG said that he did not consider it appropriate for LegCo to set up a select committee at the present time. Mr NG further said that it would be more beneficial to the community for the Experts Committee to find out what improvements should be made to the public healthcare system. As the Experts Committee would provide a report in three months' time, he suggested that Members should study the report first, before considering whether further actions should be taken.

81. Referring to Mr James TIEN's earlier remarks, Mr Michael MAK said that what was most important was that there should be an impartial, open and fair inquiry into the handling of the SARS outbreak. Mr MAK added that even if some of the frontline healthcare workers were found to be at fault, as raised by Mr James TIEN, he did not see any problems with such a finding, if this was what actually happened.

82. Dr YEUNG Sum said that Members generally agreed that the Experts Committee chaired by SHWF lacked independence, and that SHWF should not lead an inquiry which involved examining his own role in handling the SARS outbreak. Dr YEUNG further said that having considered Mr TSANG Yok-sing's earlier views, Members belonging to DP would be prepared to consider deferring the setting up of an independent inquiry until after the Experts Committee had completed its work and delivered its report in October or November 2003. Dr YEUNG suggested that if there was a consensus among Members, CE should be requested to appoint a Commission of Inquiry to conduct a thorough investigation into the handling of the SARS outbreak and to find out whether any persons should be held responsible. If CE refused to appoint a Commission of Inquiry, then LegCo should set up a select committee. He believed that the public would respect LegCo for taking such a decision.

83. Ms Cyd HO said that to do justice to the SARS victims, an investigation into the SARS outbreak should aim to acquire more knowledge and information about the disease, and to identify whether there were shortcomings in the decision-making processes. As to whether any persons should be held responsible, this should be clear upon the completion of the investigation.

84. Referring to Mr NG Leung-sing's remarks that those who had died would want the community to be forward-looking, Ms HO said that she did not think that the healthcare workers would want LegCo to only look ahead and not examine what had gone wrong and why so many healthcare workers had been infected. Ms HO further said that while she appreciated that SARS was a new phenomenon, she would like to know why Vietnam and other

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places had been able to control the spread of the disease more effectively than Hong Kong. Nevertheless, she agreed that, to allow time for the Experts Committee headed by SHWF to carry out its work and implement improvements, the setting up of a select committee could be deferred to the next session. She hoped that Members would honour what they said at today's meeting and support the setting up of a select committee.

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85. Referring to Mr TSANG Yok-sing's earlier remarks, Mr SZETO Wah said that he did not agree that witnesses would not reveal all the relevant information when they appeared before a select committee to give evidence. Mr SZETO pointed out that as witnesses gave evidence on oath, he believed that those witnesses who had given evidence to the previous select committees of LegCo had not concealed facts or given false information.

86. Mr SZETO further said that SARS had claimed many lives and it was necessary to find out whether any persons should be held responsible for the blunders in the handling of the outbreak. He asked whether Mr TSANG Yok-sing would support the setting up of a select committee in October or November this year, i.e. after the Experts Committee had completed its work and published its report.

87. Mr TSANG Yok-sing clarified that DAB supported that, in addition to the Experts Committee appointed to improve the present work against SARS, there should be an independent inquiry to pinpoint responsibility in the handling of the SARS outbreak, after the Expert Committee had completed its work. Mr TSANG considered that a LegCo select committee might not be the most effective way to conduct such an inquiry. He suggested that CE be requested to appoint a Commission of Inquiry, and if CE refused to do so, the House Committee could consider the setting up of a select committee.

88. Referring to Dr YEUNG Sum's point that there was conflict of interest in SHWF heading the Experts Committee, Mr TSANG reiterated that conflict of interest would only arise if the Experts Committee aimed to pinpoint responsibility. Since the work of the Experts Committee was not to find out whether any persons should be held responsible, the issue of conflict of interest did not arise. As regards Mr SZETO Wah's point about witnesses giving evidence before a select committee, Mr TSANG said that given its mode of operation, a select committee would take more time to obtain information from witnesses. He believed that it would be more effective for LegCo to work jointly with the Experts Committee to identify improvements to the present public healthcare system.

89. Dr YEUNG Sum said that having considered Members' views, he would, on behalf of Members of DP, suggest that the House Committee should demand CE to appoint a Commission of Inquiry in October, and if CE refused to do so, a select committee should be set up by LegCo.

90. Mr James TIEN asked Dr YEUNG whether his proposal meant that a select committee would be set up even if Members were satisfied with the report of the Experts Committee.



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91. Dr YEUNG Sum said that many Members agreed that it was necessary to find out whether any persons should be held responsible in the handling of the SARS outbreak, and that an investigation headed by SHWF himself lacked credibility. Dr YEUNG further said that Members generally agreed that there should be an independent inquiry to pinpoint responsibility, but the inquiry should be deferred to allow time for the Experts Committee to complete its work.

92. Mr James TIEN said that Members belonging to LP were of the view that the Experts Committee should complete its work and provide a report. If there were major problems with the report, Members would then consider whether it was necessary to set up a select committee.

93. Mr TSANG Yok-sing said that he appreciated that Dr YEUNG had considered his view and modified the proposal of the HS Panel. He pointed out, however, that Dr YEUNG's proposal would imply that LegCo would automatically set up a select committee if the Government did not appoint a Commission of inquiry. Mr TSANG suggested that a less rigid approach was to request CE to appoint a Commission of Inquiry to investigate whether any persons should be held responsible in the handling of the SARS outbreak, and if CE refused to do so, Members would then consider setting up a select committee.

94. In response to Mr Andrew WONG, Mr TSANG said that he had no problem with Mr WONG's suggestion of specifying the time, i.e. in October 2003, for CE to appoint the Commission of Inquiry.

95. Ms Emily LAU said that she was pleased that Members could reach an agreement that there should be an independent inquiry to find out whether any persons should be held responsible. However, as there was no urgency to take a decision on Dr YEUNG's proposal, she suggested that Members might wish to defer a decision to the next meeting.

96. Mr NG Leung-sing said that he had reservations about the proposal of requesting CE to set up a Commission of Inquiry in October this year. Mr NG further said that Members should not assume that the Experts Committee would not touch on the issue of whether anybody should be held responsible for mistakes, if any, in the handling of the SARS outbreak. Mr NG considered it unfair to ask Members to take a decision on Dr YEUNG's proposal which was only raised at this meeting.

97. Mr Fred LI pointed out that according to a public statement made by SHWF, the Experts Committee chaired by him would learn from experience in order that the Government and HA could better cope with another outbreak should it occur later in the year. The terms of reference of the Experts

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Committee did not include pinpointing responsibility.

98. Mr NG said that although the Experts Committee did not aim to pinpoint responsibility, the review might still reveal information which would throw light on whether any persons should be held responsible. He considered that should the Experts Committee's report touch on the issue of responsibility, an independent inquiry would not be necessary.

99. At the request of Dr YEUNG Sum, the Chairman suspended the meeting for five minutes to enable Members to discuss among themselves.

(The meeting resumed at 6:45 pm.)

100. Dr YEUNG Sum said that after discussion with Mr TSANG Yok-sing, he would propose the following motion for Members' consideration -

“That the House Committee demands the Government to appoint an independent Commission of Inquiry in or before October to conduct an investigation to find out the truth and whether any persons should be held responsible; if the Government refuses to do so, the House Committee will consider setting up a select committee.”

101. Ms Miriam LAU was of the view that Dr YEUNG's motion implied that the House Committee was inclined to set up a select committee, if CE refused to appoint a Commission of Inquiry. Mr James TIEN said that Members belonging to LP would decide on the need for a Commission of Inquiry or a select committee after they had seen the report of the Experts Committee. LP Members would therefore abstain from voting

102. Ir Dr Raymond HO declared that one of his family members was a frontline healthcare worker. He said that he would abstain from voting.

103. Mr Michael MAK declared again that he was an employee of HA.

104. The Chairman put Dr YEUNG's motion to vote. The result was 32 Members voted in favour of the proposal, no Member voted against the proposal and nine Members abstained.

## **VIII. Any other business**

Special meetings of Panels held at the request of the Administration

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105. Mr James TIEN said that at the request of the Administration, a special meeting of the Panel on Financial Affairs was scheduled for 8:30 am on Thursday, 29 May 2003 to discuss the special campaign to re-launch Hong Kong's economy following the SARS outbreak. Mr TIEN pointed out that the Administration only made the request for holding the special meeting on Tuesday, 27 May 2003, and some members, including the Chairman of the Panel, were unable to attend. Mr TIEN said that he had informed the Secretariat that he could only turn up at the meeting around 9 am, as he had another appointment. Mr TIEN added that there had been press reports saying that a whole team of government officials had to wait for a long time for the presence of a quorum. He was concerned that such reports would have an adverse impact on the image of LegCo.

106. Mr TIEN was of the view that Panel chairmen should not accede to requests for holding special meetings, if unreasonably short notice was given by the Administration, as members might not be able to attend due to other commitments.

107. Mr Ambrose LAU, Chairman of the Panel on Financial Affairs, said that it had been difficult to arrange the meeting given the short notice as many meetings had already been scheduled for the week. He added that he himself was also not able to attend the meeting and had to request the Deputy Chairman, Mr Henry WU, to chair the meeting. Mr LAU suggested that the matter should be raised with CS.

108. The Chairman said that she would convey to CS the message that Panel chairmen would not accede to holding special meetings, if unreasonably short notice was given by the Administration, making it difficult for Members to attend the meeting in question.

109. There being no other business, the meeting ended at 6:55 p.m.