

立法會
Legislative Council

LC Paper No. CB(2)1457/03-04

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 16th meeting
held in the Legislative Council Chamber
at 4:35 pm on Friday, 20 February 2004**

Members present :

Hon Miriam LAU Kin-yee, 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 LEE Cheuk-yan
Dr Hon Eric LI Ka-cheung, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung, JP
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
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Chin-shek, JP

Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBS, 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 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 LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok, JP
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Members absent :

Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Dr Hon LAW Chi-kwong, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee

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 Chief Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Council Secretary (1)2
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Mr Stephen LAM	Assistant Legal Adviser 4
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Lolita SHEK	Senior Council Secretary (2)7

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**I. Confirmation of the minutes of the 15th meeting held on 13 February 2004
(LC Paper No. CB(2) 1353/03-04)**

The minutes were confirmed.

II. Matters arising

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

Priority of bills

2. The Chairman said that she had advised CS that there were eight Bills Committees on the waiting list. As the Legislative Council (LegCo) was approaching the end of its current term, Members had requested the Administration to indicate whether priority should be accorded to any of the Bills Committees on the waiting list. The Chairman further said that CS had replied that the Administration was doing a review and would suggest priority of bills as and when Bills Committee slots became available.

Proposed inquiry into the incidents which have affected the credibility of the Equal Opportunities Commission (EOC) and related issues

3. The Chairman said that she had informed CS that Members had agreed to defer a decision on whether to appoint the proposed Select Committee to this meeting, pending the Administration's reply as to whether the Administration would appoint an independent committee to inquire into the incidents which had affected EOC's credibility and related issues.

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4. The Chairman further said that Secretary for Home Affairs (SHA) had subsequently written to her on 19 February 2004 that he would appoint an independent panel of inquiry. The Chairman added that this would be discussed under agenda item II(b) below.

(b) Report of the Panel on Home Affairs on its proposal for a select committee to be appointed to inquire into the incidents which have affected the credibility of the Equal Opportunities Commission and related issues

[SHA's letter dated 19 February 2004 to the Chairman of the House Committee, LC Paper Nos. CB(2) 1172/03-04, CB(2) 1286/03-04, CB(2) 1300/03-04 and CB(2) 1304/03-04(01)]

5. The Chairman referred Members to SHA's letter dated 19 February 2004 which informed her that he would appoint an independent panel of inquiry with the following terms of reference -

- (a) to inquire into the appointment and termination of employment of Mr Patrick YU as Director (Operations) of EOC and issues related thereto; and
- (b) to inquire into the incidents which had affected the credibility of EOC, and to make recommendations on measures to restore such credibility.

6. Dr YEUNG Sum said that Members belonging to the Democratic Party (DP) did not support the appointment of an independent panel of inquiry by SHA. Dr YEUNG further said that it was doubtful whether a panel appointed by SHA could be truly independent, since it would not be in a position to inquire into the role and involvement of SHA in the incidents.

7. Dr YEUNG Sum added that DP Members held the view that LegCo should appoint a select committee, which would have greater credibility than the panel of inquiry to be appointed by SHA, to investigate into the incidents. Dr YEUNG believed that the proposed inquiry should be less complicated than that of the Select Committee to inquire into the handling of the Severe Acute Respiratory Syndrome (SARS) outbreak by the Government and the Hospital Authority, and fewer witnesses would need to be summonsed by the proposed select committee. Dr YEUNG suggested that the House Committee should take a decision on the proposal of the Panel on Home Affairs (HA Panel).

8. Ms Emily LAU said that she shared the views of Dr YEUNG Sum. She did not believe that the private gatherings involving SHA and Mr Michael WONG on 4 and 5 November 2003 would be an area that the panel of inquiry to be appointed by SHA would inquire into. Ms LAU added that the public

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would prefer LegCo to conduct the proposed inquiry.

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9. In response to the Chairman, the Legal Adviser said that the terms of reference of the panel of inquiry, as set out in SHA's letter, were similar to those drafted by HA Panel for the proposed select committee. The Legal Adviser further said that if the independent panel of inquiry considered that the private gatherings on 4 and 5 November 2003 were incidents which had affected the credibility of EOC, they could be investigated, as there was no express restriction in the terms of reference that it could not inquire into the two private gatherings.

10. Ms Audrey EU said that she had all along supported the appointment of an independent Commission of Inquiry by the Chief Executive under the Commissions of Inquiry Ordinance (Cap. 86). Ms EU pointed out that unlike a statutory Commission of Inquiry, the panel of inquiry to be appointed by SHA would not have the powers to summons witnesses to give evidence before it.

11. Ms EU further said that the matter had dragged on for too long and there was urgency in conducting the inquiry as soon as possible. Ms EU expressed concern that the panel of inquiry to be appointed by SHA would need as long as nine months to submit its report. Ms EU also had doubts as to whether the terms of reference of the panel of inquiry, as presently drafted, would include the private gatherings on 4 and 5 November 2003. Ms EU added that she did not support the appointment of the panel of inquiry by SHA and that the inquiry should be carried out by a LegCo select committee, as proposed by the HA Panel.

12. Mr James TIEN said that Members belonging to the Liberal Party (LP) were concerned about the time constraint as well as the heavy work commitments of Panels, Bills Committees, the two on-going select committees and other committees. He therefore suggested, at the last meeting, that the Administration should be asked, once again, to consider the appointment of an independent committee.

13. Mr TIEN further said that the Administration had now taken a step forward by appointing an independent panel of inquiry, which would comprise three persons to be selected from the professions, academia and the business sector. Mr TIEN considered that the terms of reference, as presently drafted, could cover the two private gatherings on 4 and 5 November 2003. Mr TIEN added that LP Members supported the appointment of the independent panel of inquiry by SHA. Mr TIEN pointed out that if Members were not satisfied with the report of the independent panel, LegCo could consider appointing a select committee in the next term.

14. Mr NG Leung-sing supported the appointment of an independent panel of inquiry by SHA. Mr NG reiterated his concern that given the heavy commitments of Members in the scrutiny of bills and other committee work, the

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proposed select committee, if appointed, would not be able to complete its inquiry in the remaining months of the current term. Mr NG considered that if an inquiry was to be conducted by LegCo, it should be a comprehensive one. It would be irresponsible and unsatisfactory for the select committee, if appointed, to narrow its scope midway through the inquiry so that it could complete its work before the end of the term.

15. Mr NG further said that LegCo should have confidence in the integrity of the independent persons to be appointed to the panel of inquiry. Mr NG added that Members could consider whether it was necessary to appoint a select committee in the next term after they had studied the report of the independent panel of inquiry.

16. Mr Andrew WONG said that he did not support the appointment of the select committee proposed by the HA Panel. Mr WONG further said that he did not agree that the termination of the appointment of Mr Patrick YU was a labour dispute. In his view, the issue was whether Mr Michael WONG had acted beyond his power in terminating the appointment of Mr YU. Mr WONG considered that while there was prima facie evidence that Mr Michael WONG had acted beyond his power in terminating Mr YU's appointment, there was no prima facie evidence that SHA had done anything wrong. It would be unfair to SHA and also irresponsible of LegCo if a select committee was to be appointed to inquire into SHA's involvement in the incidents in question. Mr WONG added that if Members did not trust SHA, they should consider moving a motion of no confidence on SHA in Council, instead of using LegCo resources to appoint a select committee to achieve such a political objective.

17. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for Betterment of Hong Kong (DAB) had always held the view that the Administration should conduct an independent investigation into the incidents which had affected the credibility of EOC. As the Administration had previously not agreed to conduct an inquiry, DAB Members supported the appointment of a select committee by LegCo. Mr IP added that DAB Members supported the appointment of the independent panel of inquiry by SHA.

18. Mr IP further said that as Chairman of the Panel on Home Affairs, he was well aware that Members were concerned that the recent incidents had affected EOC's credibility, and that an independent inquiry into these incidents would help restore EOC's credibility. He, however, did not consider that SHA had any direct involvement in these incidents. Mr IP added that DAB Members were of the view that the panel of inquiry to be appointed by SHA could address the concerns of Members and the public, and it was not necessary for LegCo to appoint a select committee.

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19. The Chairman put to vote the question that the appointment of the independent panel of inquiry by SHA be supported. The result was 29 Members voted in favour of the question, nine Members voted against the question and there was no abstention.

20. The Chairman said that the House Committee supported the appointment of an independent panel of inquiry by SHA. Pending the report of the panel of inquiry, the House Committee would not pursue the proposal of the HA Panel of the appointment of a select committee by LegCo.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 13 February 2004 and tabled in Council on 18 February 2004

(LC Paper No. LS 45/03-04)

21. The Legal Adviser said that there were three items of subsidiary legislation gazetted on 13 February 2004 and tabled in Council on 18 February 2004. No difficulties relating to the legal and drafting aspects of these items of subsidiary legislation had been identified.

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

23. The Chairman said that the deadline for amending these items of subsidiary legislation was 17 March 2004, or 21 April 2004, if extended by resolution.

IV. Business for the Council meeting on 3 March 2004

(a) Questions

(LC Paper No. CB(3) 388/03-04)

24. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 3 March 2004.

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

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

(c) Government motion

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

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(d) **Members' motions**

(i) **Motion on "Merger of the two railway corporations and provision of interchange concessions"**

(Wording of the motion issued vide LC Paper No. CB(3) 394/03-04 dated 19 February 2004.)

(ii) **Motion on "Restoring the public's confidence in consuming live poultry"**

(Wording of the motion issued vide LC Paper No. CB(3) 395/03-04 dated 19 February 2004.)

27. The Chairman said that the above motions would be moved by Mr LAU Kong-wah and Mr Tommy CHEUNG respectively, and the wording of their motions had been issued to Members.

28. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 25 February 2004.

VI. Report of Bills Committees and subcommittees

(a) **Second report of the Subcommittee on subsidiary legislation relating to 2004 Legislative Council elections**

(LC Paper No. CB(2) 1385/03-04)

29. Mr HUI Cheung-ching, Chairman of the Subcommittee, said that the Subcommittee had completed scrutiny of the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections) (Application and Payment Procedure) Regulation. Mr HUI further said that to address members' concerns, the Administration had given notice to move certain amendments to the Regulation at the Council meeting on 25 February 2004. The Administration had also agreed to conduct a review of the Financial Assistance Scheme after the 2004 LegCo elections and report the findings to the Panel on Constitutional Affairs.

30. Mr HUI added that the Subcommittee supported the Regulation and the proposed amendments.

(b) **Report of the Subcommittee on Air Transport (Licensing of Air Services) (Amendment) Regulation 2004**

(LC Paper No. CB(1) 1033/03-04)

31. Mr SIN Chung-kai, Chairman of the Subcommittee, said that the Subcommittee supported the Amendment Regulation. Mr SIN further said

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that the Subcommittee considered that the practice and procedures relating to the dispatch of business by the Air Transport Licensing Authority as explained by the Administration should be set out in legislation. In response, the Administration had undertaken to conduct a separate exercise to prescribe the procedures of the Licensing Authority and consult the Panel on Economic Services on the draft procedures.

32. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the Amendment Regulation was Wednesday, 25 February 2004.

VI. Position on Bills Committees/subcommittees
(*LC Paper No. CB(2) 1389/03-04*)

33. The Chairman said that there were 15 Bills Committees and eight subcommittees in action, as well as eight Bills Committees on the waiting list.

VII. Any other business

34. There being no other business, the meeting ended at 5:05 pm.