

立法會
Legislative Council

LC Paper No. CB(2) 2274/05-06

Ref : CB2/H/5/05

House Committee of the Legislative Council

**Minutes of the 26th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 2 June 2006**

Members present :

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH

Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mrs Vivian KAM	Principal Council Secretary (Complaints)
Miss Polly YEUNG	Chief Council Secretary (1)3
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mrs Betty LEUNG	Chief Council Secretary (3)1
Ms Connie FUNG	Assistant Legal Adviser 3
Mr Jimmy YUEN	Senior Public Information Officer 3
Ms Amy YU	Senior Council Secretary (2)3

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I. Confirmation of the minutes of the 25th meeting held on 26 May 2006
(LC Paper No. CB(2) 2172/05-06)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that there was nothing special to report.

III. Further business for the Council meeting on 7 June 2006

Questions

(LC Paper No. CB(3) 590/05-06)

3. The Chairman said that Mr SIN Chung-kai and Ir Dr Raymond HO had replaced their previous oral questions.

IV. Business for the Council meeting on 14 June 2006

(a) Questions

(LC Paper No. CB(3) 591/05-06)

4. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

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

Supplementary Appropriation (2005-2006) Bill

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5. The Chairman said that the Administration had given notice to present the above Bill to the Council on 14 June 2006. The House Committee would consider the Bill at its meeting on 16 June 2006.

(c) **Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

Freight Containers (Safety) (Amendment) Bill 2006

6. The Chairman said that at the last House Committee meeting, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) **Government motions**

(i) **Proposed resolution to be moved by the Secretary for Financial Services and the Treasury (SFST) under the Mandatory Provident Fund Schemes Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 568/05-06 dated 18 May 2006.)

(LC Paper No. LS 73/05-06)

7. The Chairman said that the proposed resolution sought the Legislative Council (LegCo)'s approval of the Mandatory Provident Fund Schemes (General) (Amendment) Regulation 2006 to enhance protection of scheme members' interest, improve operation of the investment regulations, enhance flexibility of the Mandatory Provident Fund (MPF) investments, and remove undue restrictions on investment of MPF scheme funds.

8. The Chairman added that the Panel on Financial Affairs had been briefed on the proposals at its meeting on 6 February 2006, and members supported the proposed amendments in principle.

9. Members did not raise any objection to SFST moving the proposed resolution at the Council meeting on 14 June 2006.

(ii) **Two proposed resolutions to be moved by the Secretary for Security under the Mutual Legal Assistance in Criminal Matters Ordinance relating to:**

- **the Mutual Legal Assistance in Criminal Matters (Israel) Order; and**

- **the Mutual Legal Assistance in Criminal Matters (Poland) Order**

(Wording of the proposed resolutions issued vide LC Paper No. CB(3) 582/05-06 dated 24 May 2006.)

10. The Chairman said that the subcommittee formed to study the two Orders had presented its report to the House Committee on 12 May 2006, and supported the Secretary for Security giving fresh notice to move the two proposed resolutions at a future Council meeting.

(e) **Members' motions**

(i) **Motion to be moved by Hon Mrs Sophie LEUNG LAU Yau-fun**

(Wording of the motion issued vide LC Paper No. CB(3) 595/05-06 dated 2 June 2006.)

11. The Chairman said that the subject of the motion to be moved by Mrs Sophie LEUNG was "Vigorously promoting the development of social enterprises".

(ii) **Motion to be moved by Hon LAU Kong-wah**

(Wording of the motion issued vide LC Paper No. CB(3) 596/05-06 dated 2 June 2006)

12. The Chairman said that the subject of the motion to be moved by Mr LAU Kong-wah was "Measures to combat drink driving".

13. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 7 June 2006.

V. Report of Bills Committees and subcommittees

Report of the Bills Committee on Securities and Futures (Amendment) Bill 2005

(LC Paper No. CB(1) 1613/05-06)

14. Mr Ronny TONG, Deputy Chairman of the Bills Committee, presented the report of the Bills Committee on behalf of its Chairman, Mr SIN Chung-kai, who was not able to attend the meeting.

15. Mr TONG said that the Bills Committee were particularly concerned about a number of issues, including the power granted to the Chief Executive (CE) under section 11 of the Securities and Futures Ordinance; the delineation of roles and responsibilities between the Chairman of the Securities and

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Futures Commission (SFC) and its Chief Executive Officer (CEO); the arrangement for performance of functions by the SFC; and the appointment of the SFC Chairman.

16. Mr TONG further said that the Administration would move Committee Stage amendments (CSAs). In the absence of any collective view reached by the Bills Committee, it would not move any CSAs in its name. He and Ms Margaret NG would propose separate CSAs relating to section 11 of the Securities and Futures Ordinance. Mr TONG added that the Bills Committee did not object to the resumption of the Second Reading debate on the Bill on 14 June 2006.

17. Ms Margaret NG said that under the Administration's proposed amendment to section 11 of the Securities and Futures Ordinance, CE should consult the CEO, instead of the Chairman as currently required, before giving written directions to the SFC. She had grave concern that such power would erode the independence of the SFC, and had objected to the provision when the Securities and Futures Bill was considered by LegCo some years back. She would give notice to move a CSA to repeal section 11.

18. Ms NG further said as her proposed CSA would be subject to the President's ruling on whether it was within the scope of the Bill, Mr Ronny TONG would separately give notice to move a CSA to amend section 11 to require CE to consult both the Chairman and the CEO before giving written directions to the SFC. Ms NG added that given the proposed split of the post of SFC Chairman, the CSA proposed by Mr TONG would in effect maintain the status quo.

19. The Chairman said that the deadline for giving notice of CSAs, if any, was Monday, 5 June 2006.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2173/05-06)

20. The Chairman said that there were 10 Bills Committees and 11 subcommittees under the House Committee in action.

VII. Briefing the Legislative Council on important announcements and matters

(Letter dated 26 May 2006 from the Chairman of the Subcommittee on Strategy and Measures to Tackle Family Violence to the Chairman of the House Committee (LC Paper No. CB(2) 2188/05-06(01))

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21. Miss CHAN Yuen-han, Chairman of Subcommittee on Strategy and Measures to Tackle Family Violence, said that the Subcommittee welcomed the Administration's proposed amendments to the Domestic Violence Ordinance. Members, however, were very dissatisfied that the Administration had briefed the media on the proposed amendments one day before providing the relevant paper to and briefing the Subcommittee at its meeting on 23 May 2006. Miss CHAN pointed out that the Administration had refused her request to provide the paper to the Subcommittee earlier, and insisted that the paper be tabled at the meeting.

22. Miss CHAN Yuen-han further said that what the Administration did was disrespectful to LegCo. Moreover, the relevant Government officials attending the Subcommittee's meeting failed to appreciate the seriousness of the matter. They explained to the Subcommittee that they had worked very hard to prepare the paper and if the Subcommittee was not ready to consider it, the discussion could be deferred. Miss CHAN added that the relevant officials were not at all apologetic about briefing the media on the amendments first. The Subcommittee therefore considered it necessary to request the Chairman of the House Committee to take the matter up with CS.

23. Dr Fernando CHEUNG said that he was a member of the Subcommittee. Dr CHEUNG further said that the incident was serious. The Administration had on past occasions failed to brief LegCo on important policies and legislative proposals prior to briefing the media. Dr CHEUNG considered such incidents not conducive to improving the relationship between the Executive Authorities and LegCo. Dr CHEUNG supported the Subcommittee's proposal that the matter should be taken up with CS.

24. Mrs Sophie LEUNG said that she was the only Subcommittee member present at its meeting on 23 May 2006 who did not consider the incident serious. Mrs LEUNG pointed out that since last year, the Subcommittee and many organisations concerned had been calling for amendments to the Domestic Violence Ordinance. Proposals to amend the Ordinance were anticipated, and it was only a matter of when such proposals would be put forward. Mrs LEUNG added that the proposed amendments were in line with the recommendations made by the Women's Commission and were not completely new proposals. Nevertheless, she appreciated the concern expressed by some Subcommittee members that the Administration should have briefed the Subcommittee on the proposals earlier.

25. Ms LI Fung-ying said that she was a member of the Subcommittee. Ms LI further said that the Administration should respect the agreed procedure that it should brief LegCo on important announcements and matters prior to briefing the media. Ms LI pointed out that on this occasion, the relevant officials not only failed to follow the agreed procedure, they also failed to see

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the crux of the matter. Without being informed of the proposed amendments beforehand, Subcommittee members could not give their views when approached by the media. Some of them even told the media that there were no such proposals, which could render their credibility being called into question.

26. Ms Emily LAU said that the Administration should adhere to the arrangement that it should brief LegCo on important announcements and matters prior to briefing the media.

27. The Chairman said that it was not the first time the Administration had failed to first brief LegCo or its relevant committee on important announcements or matters before briefing the media, although it had promised to try its best to do so. The Chairman further said that she would raise the matter with CS.

VIII. Any other business

28. There being no other business, the meeting ended at 2:45 pm.

Council Business Division 2
Legislative Council Secretariat
7 June 2006

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