

立法會
Legislative Council

LC Paper No. CB(2) 2471/07-08

Ref : CB2/H/5/07

House Committee of the Legislative Council

**Minutes of the 29th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 27 June 2008**

Members present :

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBM, GBS, 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 CHAN Yuen-han, SBS, JP
Hon Bernard CHAN, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon CHOY So-yuk, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP

Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG, JP
Hon KWONG Chi-kin
Hon TAM Heung-man
Hon Mrs Anson CHAN, GBM, JP

Members absent :

Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon CHEUNG Man-kwong
Hon LAU Chin-shek, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, SBS, JP
Hon Vincent FANG Kang, JP

Clerk in attendance :

Mrs Vivian KAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Ms Pauline NG	Assistant Secretary General (Special Duty)
Mrs Constance LI	Assistant Secretary General 1

Mrs Justina LAM	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr KAU Kin-wah	Acting Senior Assistant Legal Adviser 2
Mrs Pandora CHAN	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms YUE Tin-po	Chief Council Secretary (1)3
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Ms Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Winnie LO	Assistant Legal Adviser 7
Ms Amy YU	Senior Council Secretary (2)3
Mr Arthur KAN	Legislative Assistant (2)7

Action

I. Confirmation of the minutes of the 28th meeting held on 20 June 2008
(*LC Paper No. CB(2) 2408/07-08*)

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. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 20 June 2008 and tabled in Council on 25 June 2008

(*LC Paper No. LS 100/07-08*)

3. The Chairman said that three items of subsidiary legislation were gazetted on 20 June 2008 and tabled in the Council on 25 June 2008.

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

5. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 15 October 2008.

IV. Business for the Council meeting on 9 July 2008

(a) **Questions**

(LC Paper No. CB(3) 788/07-08)

6. 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**

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

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

(i) **Race Discrimination Bill**

(ii) **Independent Police Complaints Council Bill**

(iii) **Air Pollution Control (Amendment) Bill 2008**

(iv) **Product Eco-responsibility Bill**

8. The Chairman said that the relevant Bills Committees on the above four Bills had presented their reports to the House Committee at the last meeting, and Members had not raised objection to the resumption of the Second Reading debates on the above four Bills.

(d) **Government motion**

Proposed resolution to be moved by the Secretary for Transport and Housing under the Dutiable Commodities Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 799/07-08 dated 25 June 2008.)

(LC Paper No. LS 101/07-08)

9. The Chairman said that the motion was for seeking the Legislative Council (LegCo)'s approval to lower the duty to be payable on Euro V diesel to \$0 per litre as from 14 July 2008.

10. The Chairman added that the Panel on Economic Development had been briefed on the legislative proposal at its meeting on 23 June 2008, and members in general supported the proposal.

11. Members did not raise objection to the Administration moving the proposed resolution.

Action

(e) **Members' motion**

Valedictory motion

(Wording of the motion issued vide LC Paper No. CB(3) 762/07-08 dated 17 June 2008.)

12. The Chairman said that the above motion would be moved by her in her capacity as the Chairman of the House Committee. Members had agreed on the wording of the motion which was couched in neutral terms. Members had also agreed at the last House Committee meeting that the speaking time limit for each Member would be 15 minutes.

13. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motion was Wednesday, 2 July 2008.

Arrangement for the Council meeting on 9 July 2008

14. The Chairman said that the Council meeting on 9 July 2008 was the last one for the current term. As there would be a lot of business for that Council meeting and many Members would likely speak at the valedictory motion debate, it was anticipated that the meeting might last for more than three days. She would invite Members to consider at the next House Committee meeting the arrangement for that Council meeting. One option was that if the Council meeting could not be finished by around 10:00 pm on Friday, 11 July 2008, it would be suspended and resumed on Monday, 14 July 2008. Alternatively, the Council meeting could continue on 11 July 2008 until all the business on the Agenda had been finished.

15. Mr LAU Kong-wah agreed with the need to discuss beforehand the arrangement for that Council meeting to facilitate Members' planning for their schedule.

16. The Chairman said that while the matter could be discussed at the meeting if Members so wished, discussion at the next meeting would allow more time for Members to consider their preference meanwhile. Members agreed to discuss at the next meeting.

17. Mr SIN Chung-kai opined that Members could be provided with possible options for selection by circulation of papers before discussion, such as whether the Council meeting should be (a) continued on 11 July 2008 until all the business on the Agenda had been finished; (b) suspended at about 10:00 pm on 11 July 2008 and resumed on Saturday, 12 July 2008; or (c) suspended at about 10:00 pm on 11 July 2008 and resumed on Monday, 14 July 2008.

Action

18. The Chairman said that she would discuss with the Secretariat how best to seek Members' views on the matter.

V. Report of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Race Discrimination Bill**
(LC Paper No. CB(2) 2410/07-08)

19. The Chairman said that Ms Margaret NG, Chairman of the Bills Committee, had given a verbal report at the last House Committee meeting. A written report was provided for the meeting.

20. Members did not raise any queries on the report.

(b) **Report of the Bills Committee on Independent Police Complaints Council Bill**
(LC Paper No. CB(2) 2411/07-08)

21. The Chairman said that Mr LAU Kong-wah, Chairman of the Bills Committee, had given a verbal report at the last House Committee meeting. A written report was provided for the meeting.

22. Members did not raise any queries on the report.

23. Mr James TO said that he would move Committee Stage amendments (CSAs) to the Bill. As the Administration was still considering whether to incorporate some of his proposed amendments into the CSAs to be moved by it and had yet to make a final decision on the matter, he would proceed with his proposed CSAs for the time being. There might be variations in the final version of CSAs to be moved by him. He added that the deadline for giving notice of CSAs was midnight of 26 June 2008.

(c) **Report of the Bills Committee on Product Eco-responsibility Bill**
(LC Paper No. CB(1) 2022/07-08)

24. The Chairman said that Miss CHOY So-yuk, Chairman of the Bills Committee, had given a verbal report at the last House Committee meeting. A written report was provided for the meeting.

25. Miss CHOY So-yuk said that due to time constraint, she had given a brief verbal report at the last House Committee meeting. She referred Members to the Bills Committee's report for details of its deliberations.

Action

26. Members did not raise any queries on the report.

(d) **Report of the Subcommittee on Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008**

(LC Paper No. CB(1) 1920/07-08)

27. The Chairman said that Ms Audrey EU, Chairman of the Subcommittee, had given a verbal report at the last House Committee meeting. A written report was provided for the meeting.

28. Members did not raise any queries on the report.

(e) **Report of the Subcommittee on Building (Planning) (Amendment) Regulation 2008**

(LC Paper No. CB(2) 2403/07-08)

29. The Chairman said that at the request of the Chairman of the Subcommittee, Ms Emily LAU, who was not able to attend the meeting, she would report on the work of the subcommittee. The Chairman reported that the Subcommittee had held six meetings and had received the views of 20 organizations and an individual.

30. The Chairman elaborated that the Amendment Regulation sought to enhance the design requirements governing the provision of facilities for access to and the use of buildings and their facilities by persons with disabilities (PwDs) to tie in with the revised design requirements set out in the Design Manual - Barrier Free Access 2008.

31. The Chairman further reported that the Administration would move a resolution at the Council meeting on 9 July 2008 to amend certain provisions of the Amendment Regulation with a view to clarifying the requirements therein. The Subcommittee supported the Amendment Regulation and the Administration's proposed amendments.

32. The Chairman added that Mr Tommy CHEUNG might consider moving amendments to the Amendment Regulation.

33. The Chairman reminded Members that as the deadline for amending the Regulation was 9 July 2008, the deadline for giving notice of amendments, if any, was Wednesday, 2 July 2008.

(f) **Report of the Subcommittee on Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) (Amendment) Regulation 2008**

(LC Paper No. CB(1) 2013/07-08)

Action

34. Miss CHOY So-yuk, Chairman of the Subcommittee, reported that the Amendment Regulation sought to impose a mandatory requirement for the provision of a refuse storage and material recovery room on every floor of a building to facilitate source separation of waste for material recovery. The Subcommittee had held two meetings with the Administration and had received views from representatives of various groups.

35. Miss CHOY further reported that while the Subcommittee supported the Amendment Regulation, members had expressed diverse views on the exemption of hostel and dormitory from the mandatory requirement. Some members held a strong view that hostel and dormitory should not be exempted as the provision of a separate refuse storage and material recovery room on every floor of these types of buildings would encourage waste recovery. Having considered members' views, the Administration agreed to move a resolution at the Council meeting on 9 July 2008 to remove "hostel or dormitory" from the new section 3A(5) of the Amendment Regulation.

(g) Report of the Subcommittee on Subsidiary Legislation to Introduce a Unified Carrier Licence under the Telecommunications Ordinance
(LC Paper No. CB(1) 2035/07-08)

36. Mr Bernard CHAN, Chairman of the Subcommittee, reported that to enable the introduction of a Unified Carrier Licence (UCL), the Administration proposed to amend the Telecommunications (Carrier Licences) Regulation to provide for the general conditions, period of validity and licence fees payable in respect of UCL, and to make consequential amendments to the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation.

37. Mr CHAN further reported that the Subcommittee had held three meetings with the Administration and had received views from the industry players. The Subcommittee noted the diverse views expressed by the industry players on the proposed restructuring of the UCL fee, in particular the number fee. The Subcommittee had examined the reasons for implementing the number fee and requested the Administration to conduct an assessment of the different options for charging number fee. After discussions, the Administration advised that the options and the proposals put forward by the operators were not feasible and failed to achieve the policy intent of promoting the efficient use of numbers by operators. A member was of the view that as the imposition of the number fee was a policy change which would have significant impact on operators and their existing users, the Administration should review the UCL regime and study whether the number fee had achieved its intended purpose three years after its commencement. The Administration had undertaken to report to the Panel on Information Technology and Broadcasting on the outcome of the review.

Action

38. Mr CHAN added that the majority of members of the Subcommittee supported the Administration's legislative proposals and the implementation of various measures. The Subcommittee noted that Mr Albert CHAN had given notice to move a motion to repeal the two Amendment Regulations at the Council meeting on 9 July 2008.

(h) **Report on Development of Social Enterprise by the Subcommittee to Study the Subject of Combating Poverty**
(LC Paper No. CB(2) 2390/07-08)

39. Mr Frederick FUNG, Chairman of the Subcommittee, reported that the Subcommittee had completed its fourth report on the subject of development of social enterprise. To further promote the development of social enterprise in Hong Kong, the Subcommittee had discussed with the Administration and relevant organizations the difficulties encountered by social enterprises as well as the policy on and measures to foster the development of social enterprise. The Subcommittee had made 21 recommendations for the Administration's consideration and response. He referred Members to the Subcommittee's report for details of its deliberations.

40. Mr FUNG further reported that the Subcommittee had agreed that the report should be forwarded to the Administration for consideration and response after submission to the House Committee.

41. Members agreed to forward the Subcommittee's report to CS for consideration and response.

(i) **Report of the Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities**
(LC Paper No. CB(1) 1919/07-08)

42. Mr LEE Cheuk-yan, Chairman of the Subcommittee, reported that the Subcommittee had held 17 meetings since its formation in November 2005. He referred Members to the Subcommittee's report for details of its deliberations.

43. Mr LEE further reported that the main task of the Subcommittee was to promote the provision of concessionary public transport fares for PwDs. However, as most public transport operators were profit-oriented, there was still much to be done in this regard.

44. Mr LEE added that while welcoming the Administration's proposal to provide a monthly transport supplement of \$200 to PwDs with effect from July

Action

2008, the Subcommittee considered that the Administration should further promote the integration of PwDs into society. The Subcommittee had urged the public transport operators, including the MTR Corporation Limited, to provide fare concessions to PwDs under the principle of shared responsibility. The Subcommittee recommended that the fourth LegCo should continue to follow up on the subject.

45. The Chairman said that the normal practice was to forward the report to the Administration for consideration and response. Members agreed.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2409/07-08)

46. The Chairman said that there were two Bills Committees and three subcommittees under Panels in action.

VII. Paper of the Committee on Rules of Procedure (CRoP)

Proposed amendments to the House Rules regarding proposing new motions during the 15-minute period of extension or continuation of meeting allowed by the chairman of a committee

(LC Paper No. CROP 48/07-08)

47. Mr Jasper TSANG, Chairman of CRoP, said that CRoP proposed to amend Rule 24A of the House Rules (HR) to stipulate that no new motion should be allowed to be proposed during the 15-minute period of extension or continuation of meeting allowed by the committee chairman. The proposed amendments were set out in the Appendix to the paper. He appealed to Members to support the recommendations of CRoP.

48. The Chairman sought Members' views on CRoP's recommendations.

49. Mr Martin LEE said that under the existing arrangement, a new motion could be proposed during the 15-minute period of extension or continuation of a committee meeting allowed by the chairman. Under the proposed arrangement, a new motion could not be proposed during such period of extension or continuation of meeting. He expressed reservations about the proposal.

50. Members endorsed CRoP's recommendations and the proposed amendments to HR 24A.

VIII. Procedural rules governing the holding of Panel meetings

(Letter dated 24 June 2008 from Hon LEE Cheuk-yan to the Chairman of the House Committee (LC Paper No. CB(2) 2427/07-08(01))

51. Mr LEE Cheuk-yan said that Ms Emily LAU wrote to the Chairman of the Panel on Constitutional Affairs (CA Panel) requesting discussion at the meeting on 16 June 2008 of her proposal to refer the issue concerning the appointment of Under Secretaries and Political Assistants to the Independent Commission Against Corruption for examination as to whether the approach adopted by the Administration was in compliance with certain criteria. Ms LAU's letter (the letter) was brought up for discussion when the appointed ending time of the Panel meeting, i.e. 5:30 pm, had passed. As the Panel on Food Safety and Environmental Hygiene (the FSEH Panel) had scheduled to hold its meeting at 5:30 pm at the same venue, there was no time to deal with the letter and Mr LAU Kong-wah proposed that it be dealt with at the next meeting of the CA Panel. With such an understanding, Mr LEE had suggested to Ms LAU to defer the consideration of her letter to the next CA Panel meeting, and she agreed. The Chairman of the CA Panel (the Panel Chairman) agreed at the meeting to discuss the letter at another meeting. However, the Panel Chairman directed the Secretariat after the meeting to seek members' view by circulation of papers on whether a meeting should be held to discuss the letter, and the majority of the members responded that it was not necessary to hold a meeting for the purpose. Mr LEE was concerned that a decision made at the CA Panel meeting should have been subject to reconsideration by circulation of papers and was then overturned. He considered the approach taken in handling the matter unreasonable. As he was the one who had proposed to Ms LAU to defer consideration of her letter to the next CA Panel meeting, he considered that he had an obligation to raise the subject for discussion at the House Committee meeting as regards the need for making procedural rules governing the holding of Panel meetings.

52. The Chairman said that the House Committee should not deal with matters within the purview of Panels as the latter were not appointed under the House Committee. The House Committee also should not act as an adjudicator of disputes or assume the role of an appeals committee. As such, it should not adjudicate the incident concerning the CA Panel. However, as the incident involved a broader issue of the need for procedural rules governing the holding of special Panel meetings, subject to Members' views, the matter could be referred to CRoP for consideration.

53. Mr Martin LEE said that as the Third LegCo was drawing to an end, the matter should be resolved by the House Committee.

54. The Chairman said that the proceedings of Panel meetings were governed by the Rules of Procedure (RoP). Panel chairmen, elected by

Action

members among themselves, exercised the powers and authority as provided in RoP. Should Members consider the existing RoP inadequate or unclear in relation to the holding of special Panel meetings, the matter could be referred to CRoP for consideration. She reiterated that the House Committee should not deal with matters within the purview of Panels which were not appointed under the House Committee; neither should the House Committee act as an adjudicator of disputes.

55. Mr Martin LEE considered it necessary to resolve the matter within the current term as the operation of committees was at stake. He pointed out that the incident had wide implications as the opportunity of some members in the minority for bringing up an issue for discussion at Panel meetings had been deprived. The referral of the matter to CRoP was not a solution as CRoP could not make a decision within a short time. In his view, should the House Committee be unable to resolve the matter, a motion for debate should be moved at a Council meeting.

56. The Chairman said that she noted the concern of some Members that the incident might have impacted on the operation of committees. She had hence suggested its referral to CRoP for consideration of the need for the making of further rules. She added that while CRoP might not be able to make recommendations in this regard shortly, the House Committee could request CRoP to accord priority in considering the matter in the next term.

57. Dr YEUNG Sum regretted the unsatisfactory approach taken by the Panel Chairman in handling the letter. He said that the Panel Chairman had agreed to hold another meeting to deal with the letter, and it was inappropriate for the Panel Chairman to seek members' view again by circulation of papers. He said that all along, LegCo Members had a gentleman agreement to respect each other for holding different views and to allow opportunities for Members of different political affiliation to raise issues for discussion. However, he observed lately that this mutual respect and tolerance had changed.

58. Ms Margaret NG raised a point of order. She did not agree with the Chairman's view that the House Committee was not the appropriate platform for handling the incident. She referred Members to Rule 75(8) of RoP which provided that the House Committee might provide guidelines relating to the procedures of committees including Panels. Ms NG pointed out that should matters relating to Panels not be discussed by the House Committee, it would not be possible for the House Committee to provide guidelines relating to the procedures of Panels.

59. The Chairman clarified that she was not of the view that matters relating to Panels could not be discussed by the House Committee. She had only pointed out that the House Committee was not an appeals committee on

Action

matters relating to Panels. Should CRoP make any recommendations concerning the operation of Panels, the subject matter would be discussed by the House Committee which would then provide guidelines.

60. Ms Margaret NG said that while the House Committee could refer a subject matter to CRoP for consideration, this should not be the only way for the House Committee to discharge its function to provide guidelines relating to Panels. In her view, the House Committee could discuss the incident concerning the CA Panel and provide guidelines to the Panel.

61. Dr YEUNG Sum considered it appropriate for the House Committee to discuss but not to adjudicate on matters relating to Panels. Referring to the incident concerning the CA Panel, he was given to know that someone had advised the Chairman not to hold a meeting to discuss the letter. He said that while he had no intention of identifying who these persons were, he considered it deplorable for LegCo to have deviated from the well-established gentleman agreement and had disallowed Members in the minority to bring up an issue for discussion. Dr YEUNG stressed that Members should respect different views. He hoped that incidents of a similar nature would not recur in future.

62. Mr LEE Cheuk-yan said that Members had to resolve the point of order raised by Ms Margaret NG. Since the House Committee had the function of providing guidelines relating to Panels, he would make a proposal for the House Committee to give directive to the CA Panel to hold a meeting to discuss the letter.

63. Mr Ronny TONG did not agree with the view that the House Committee was not the appropriate platform for discussing matters relating to Panels. On the contrary, he considered that the House Committee should be the right platform for discussing in-house matters. He considered it unacceptable for the views of the majority of Members to be imposed on Members in the minority, depriving the latter the opportunity to discuss an issue of public importance. In his view, this was the culture of commercial organizations and their boards but should not be the culture of a Legislature. He said that it was incumbent upon LegCo Members to discuss matters of public importance. Should LegCo default this duty, public perception of LegCo would be hampered. He regretted the way the Panel Chairman had handled the matter. He added that the Panel Chairman should apologize and call a meeting to discuss the letter. There was no need for the House Committee to give guidelines.

64. The Chairman clarified that the subject matter had been put on the agenda of the House Committee meeting for discussion. She had only pointed out to Members that the House Committee should not adjudicate on matters relating to Panels.

Action

65. Mr Ronny TONG said that he considered it necessary for Members to discuss the incident in the open at the House Committee. He reiterated that unlike the operation of commercial organizations, the culture of a Legislature should allow free discussion and the opportunity of Members to raise a subject for discussion should not be deprived.

66. At the invitation of the Chairman, Legal Adviser (LA) said that under Rule 75(8) of RoP, the House Committee might provide guidelines relating to Panels. Rule 77(15) provided that the practice and procedures of a Panel should be determined by that Panel, and in any such determination, the Panel should take into account any guidelines provided under Rule 75(8). In practice, such guidelines were stipulated in the House Rules (HR). As far as Panels were concerned, the guidelines were contained in HR 22. LA pointed out that such guidelines were for general reference by but not binding on Panels. LA drew Members' attention to the fact that the issue under deliberation was whether procedural rules should be made governing the holding of Panel meetings.

67. Ms Margaret NG enquired whether HR 22 had been made invariably after discussion by the House Committee.

68. LA said that it was the normal arrangement for the House Committee to consider the relevant rules before their incorporation in HR, as in the case of the proposed amendments to HR 24A under agenda item VII above.

69. Ms Margaret NG further enquired whether it had been the practice for Members to discuss at House Committee meetings before the House Committee provided or made changes to the guidelines under HR.

70. LA said that how it should be dealt with was decided by the House Committee.

71. The Chairman pointed out that it had been the past practice for the House Committee to refer a subject matter concerning RoP or HR raised by individual Members to CRoP for in-depth consideration. The subject matter would then be discussed by the House Committee after consideration by CRoP.

72. Ms Margaret NG said that she did not agree that every LegCo business should be regulated by rules, instead of by consensus and agreement. She noted that in recent years, many matters were referred to CRoP for the making of rules.

73. The Chairman said that Members had all along considered it an acceptable arrangement to refer a subject matter concerning rules and

Action

procedures to CRoP for consideration to allow sufficient time for comprehensive discussion. However, whether such an arrangement should continue was subject to Members' views.

74. In response to Mr LAU Kong-wah's enquiry and at the invitation of the Chairman, LA said that HR complemented RoP concerning the operation of LegCo. It was for Members to decide whether a rule should be specified in RoP which were binding or HR as guidelines. Although HR were guidelines only, Members had all along respected HR in practice. He referred Members to Rule 77(11) of RoP which provided for the power of the Chairman of a Panel to determine the time and place of a Panel meeting. He pointed out that the power of Chairmen of Panels was based on RoP.

75. Mr LEE Cheuk-yan said that as RoP provided for the House Committee to give guidelines relating to Panels, he considered such a power broad enough to enable the House Committee to give directive to the CA Panel to hold a meeting to discuss the letter. In his view, such a power of the House Committee should not be interpreted in a restrictive sense.

76. Dr LUI Ming-wah said that the account of the incident quoted by Mr LEE Cheuk-yan was not factual. When he, as the Panel Chairman, sought members' view on whether the letter should be dealt with at the CA Panel meeting, the appointed ending time had passed. He had intended to deal with the letter at that meeting, and had not indicated that another meeting would be held within the term to deal with it. He asked Members to listen to the recording of the proceedings of the Panel meeting and to refer to the media reports which gave an accurate account of the incident. He added that as the CA Panel had not scheduled any further regular meeting for the current term, he had directed the Secretariat to seek members' view on the need to hold a special meeting by circulation of papers.

77. Mrs Selina CHOW said that the matter raised by Mr LEE Cheuk-yan was indeed a complaint and not procedural in nature. She shared the Chairman's view that the House Committee should not handle complaints about Panels, and was concerned about its implications on the operation of the House Committee. She said that she had attended the CA Panel meeting, and recalled that its Chairman had not said that another meeting would be held to deal with the letter. In fact, the Panel Chairman had intended to deal with the letter at that meeting but could not do so because of the then chaotic situation, the lapse of the appointed ending time and the need to vacate the meeting venue to make way for another committee meeting. The Panel Chairman therefore had to seek members' view after the meeting on the need to hold a special meeting to deal with the letter by circulation of papers. This was a normal approach taken by Panels concerning the holding of special meetings.

Action

78. Mrs CHOW added that Members belonging to the Liberal Party had discussed the need to hold a special meeting. After considering the significant amount of business to be dealt with by LegCo before the end of the current term and the unavailability of time for holding meetings, Members belonging to the Liberal Party had decided that a special meeting was not necessary. Mrs CHOW pointed out that although the letter was not discussed at a meeting, it had been dealt with by circulation of papers. She did not submit to the view that members in the majority had imposed their view on members in the minority. She stressed that it had all along been the agreed practice that a matter should be decided by the majority of the members voting. As the Panel Chairman had handled the matter according to the established practice and procedures, she did not consider it necessary to refer the matter to CRoP. Nevertheless, should the majority of Members consider it otherwise, she would not object.

79. Mr LEUNG Yiu-chung also shared the view that the House Committee should not adjudicate disputes or handle complaints relating to Panels. He said that notwithstanding the provision in RoP for the House Committee to provide guidelines to Panels, matters relating to Panels should best be handled by Panels themselves. He appealed to Members not to dwell on the incident but be forward-looking and exchange views on how the operation of Panels could be improved. He echoed Dr YEUNG Sum's view that it was important to allow opportunity for Members to raise an issue for discussion. He called upon Panel chairmen to review the existing practice and to provide opportunities, as far as practicable, for discussion on a subject matter suggested by Panel members. In his view, this would be a far better arrangement than resorting to the approach of seeking members' view for a decision on whether certain subject matters should be discussed.

80. Mr SIN Chung-kai said that the Legislature should not operate in an hegemonic manner. Members should respect different views and decide on matters after thorough discussions. It would not be a blessing to the Legislature to depart from the well-established convention of allowing discussions. All along, Members in the majority would not deprive the opportunity of Members in the minority to bring up an issue for discussion. Should Members belonging to the pan-democratic camp constitute the majority in the Legislature, they would not suppress the minority's views. Mr SIN pointed out that there were precedent cases where the House Committee had given directives to Panels, such as referring an issue to a Panel for follow up or requesting two Panels to hold a joint meeting to discuss an issue. In the light of these precedents, he considered it proper for the House Committee to give directive to the CA Panel to hold a meeting to discuss the letter.

81. Mrs Anson CHAN said that as a new LegCo Member, she considered it odd that every business had to be regulated by rules and guidelines. In her

Action

view, the matter concerned the culture of the Legislature and the crux was whether a gentleman agreement existed whereby members in the minority were given opportunity to bring up an issue for discussion. Mrs CHAN further said that she was present at the meeting of the CA Panel, and recalled clearly that members had agreed to hold another meeting to deal with the letter. Had she known that another meeting would not be held, she would have insisted on discussing the letter at that meeting. She queried whether it was in order for the Panel Chairman to reopen the decision on the holding of another meeting by circulation of papers. She considered that the Panel Chairman should have sought members' view at the meeting, and the approach taken was unfair to members present at the meeting.

82. Mr TAM Yiu-chung said that he was the Deputy Chairman of the CA Panel and was present at the meeting. He recalled clearly that the Panel had not agreed to hold another meeting; neither had the Panel Chairman indicated that the letter would be discussed at the next meeting. He shared the view that the meeting then was very chaotic and beyond the control of the Panel Chairman. This had adversely affected the image of LegCo. However, he would not subscribe to the view that members in the majority had imposed their views on members in the minority. Mr TAM pointed out that LegCo business had along been decided by majority decision through voting. This was how LegCo and a democratic society operated, and had nothing to do with the operation of commercial organizations or hegemonism.

83. Mr TAM further said that as the CA Panel had not made a decision on whether another meeting should be held, it was reasonable for its Chairman to seek members' views on the matter by circulation of papers. After the majority of Panel members had decided that another meeting was not necessary, the letter had then been dealt with by circulation of papers. He did not see any impropriety on the part of the Panel Chairman in handling the matter or any need to refer any procedural issues to CRoP. Mr TAM pointed out that the Chairman of a committee should exercise his power in accordance with the relevant rules. When a Panel had made a decision on a matter, it was not appropriate for the House Committee to overturn its decision or provide guidelines to the Panel.

84. The Chairman clarified that she had suggested referral of the matter to CRoP as Mr LEE Cheuk-yan had raised the need for the making of procedural rules governing the holding of Panel meetings, as stated in the last paragraph of his letter. Should Members consider it necessary to make such procedural rules, it would be for CRoP, and not the House Committee, to do so. She had therefore invited Members' views on referring the matter to CRoP, which was one possible way of handling the matter. She stressed that it was not her view that the matter must be referred to CRoP.

Action

85. Ir Dr Raymond HO said that he was present at the CA Panel meeting, which was indeed very chaotic towards the end. He had not listened to the recording of the proceedings of the meeting, but recalled clearly that the Panel Chairman had not indicated that another meeting would be held. While agreeing that members should be given the opportunity to bring up a subject matter for discussion, it should be done in accordance with the relevant rules and established practices. It was an established practice for committee chairmen to seek members' views on the holding of a special meeting by circulation of papers, and it was fair for the Panel Chairman to follow such a practice. It was also an established practice for the Legislature to operate on the principle of majority rule, which should not be interpreted as hegemonism. He shared the Chairman's view that should Members agree on the need for the making of procedural rules governing the holding of Panel meetings, the matter should be referred to CROp as it was not within the remit of the House Committee to do so.

86. Mr LEUNG Kwok-hung said that he had attended the CA Panel meeting and the Panel Chairman had requested members to decide by voting whether to deal with the letter. He considered it inappropriate for the Panel Chairman to do so because a committee Chairman was charged with the responsibility to deal with requests raised by members. He stressed that he did not object to the making of a decision on a matter by the majority of the members voting, but the suppression of the right of members in the minority to raise a subject for discussion. In his opinion, respecting the right of the minority to express views was the essence of democracy. Members in the minority should not be deprived of the opportunity to exercise their rights enshrined in the relevant rules. He also considered it inappropriate for the Panel Chairman to deal with the letter by circulation of papers. He pointed out that the matter should be discussed at a meeting to enable exchange of views among members, and important matters should not be decided by circulation of papers. The Panel Chairman should have dealt with the letter at the meeting, which might take only a few minutes. However, the Panel Chairman had not done so because of the lapse of the appointed ending time and the need to vacate the meeting venue for another committee meeting. Mr LEUNG said that the matter could be resolved by holding a short CA Panel meeting of, say, five minutes to deal with the letter.

87. Mr Tommy CHEUNG said that the FSEH Panel was not the only committee scheduled to hold a meeting at 5:30 pm on that day. He recalled that Ms Emily LAU had drawn members' attention to a total of three committee meetings scheduled to be held at 5:30 pm. He pointed out that the FSEH Panel meeting had invited deputations from the poultry trade to attend. When he requested the CA Panel to vacate the meeting venue for the meeting of the FSEH Panel, it was already around 5:37 pm, and some time was required for setting up the meeting venue for receiving deputations. Had the CA meeting

Action

continued for a few more minutes to deal with the letter, all three committee meetings would have to be cancelled if they were not held within 15 minutes of the appointed starting time.

88. Dr LUI Ming-wah reiterated that Members should listen to the recording of the proceedings of the meeting for a factual account of the incident.

89. Mr LEE Cheuk-yan clarified that when he said that members in the majority should not impose their views on members in the minority, he did not mean the taking of a position on a subject matter after discussion by voting, but the right of members to bring up a subject matter for discussion. He pointed out that a committee would not normally decide whether to discuss a subject matter by voting, as it had been a LegCo convention to respect the wish of members to raise an issue for discussion. Although he had not listened to the recording of the proceedings of the meeting, he recalled and some people who had listened to the recording had confirmed to him that the Panel Chairman had agreed at the meeting to deal with the letter at the next meeting. He did not recall any remarks having been made that the meeting might be held in the next LegCo term. It was therefore reasonable for him to expect that the meeting would be held within the current session. He requested the House Committee to resolve the matter by giving a directive to the CA Panel to convene a meeting to discuss the letter.

90. The Chairman reiterated that the House Committee should not deal with matters within the purview of Panels as Panels were not appointed under the House Committee. As pointed out by LA, the guidelines referred to in Rule 75(8) of RoP were stipulated in HR. Under the established practice, the making of new or amendment to existing rules would be thoroughly discussed by CRoP first before submission to the House Committee for consideration. She did not consider it appropriate to depart from such a practice.

91. The Chairman further said that as she was not present at the meeting of the CA Panel, she did not know whether the Panel Chairman had indicated that the letter would be dealt with at the next meeting. However, there was no dispute that the Panel meeting had continued beyond its appointed ending time and the meeting venue had to be vacated for the FSEH Panel to hold its meeting. It appeared that when a proposal was made to deal with the letter at the next meeting of the CA Panel, members might not be aware that the meeting was the last regular meeting of the Panel for the current term. If the letter was to be dealt with at another meeting, it would have to be a special meeting. For special meetings, it was the normal practice for the committee chairmen to ascertain the availability of members to attend the meeting by circulation of papers. Should the majority of members respond that they were not available for the meeting, the special meeting would not be held under the established practice. The CA Panel had decided by circulation of papers that

Action

it was not necessary to hold the special meeting, and the letter had been dealt subsequently with by circulation of papers.

92. The Chairman summed up that it was an unfortunate incident, and some Members were concerned about the suppression of views of the minority. She understood that Members had been overloaded with work in the past few months and were under immense pressure. She urged Members to respect different views and give opportunities for discussion on subject matters raised by individual Members as far as practicable. She hoped that similar incidents would not recur in future. In conclusion, the Chairman reiterated that the House Committee should not act as an adjudicator of disputes or provide procedural guidelines to committees on an ad hoc basis.

93. Members did not consider it necessary to refer any procedural issues to CRoP.

94. Mrs Sophie LEUNG was concerned that some Members had behaved in an antagonistic manner and had challenged the authority of the Chairman at the meeting. She pointed out that this should not be the culture of the Legislature.

95. The Chairman said that Members were free to express their views and her role was to facilitate rational discussions.

IX. Any other business

96. There being no other business, the meeting ended at 3:52 pm.