

立法會
Legislative Council

LC Paper No. CB(2) 2689/10-11

Ref : CB2/H/5/10

House Committee of the Legislative Council

**Minutes of the Special Meeting
held in the Legislative Council Chamber
at 11:00 am on Thursday, 1 September 2011**

Members present:

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP

Dr Hon Priscilla LEUNG Mei-fun, JP
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP

Members absent :

Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Dr Hon PAN Pey-chyou
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Clerk in attendance :

Miss Odelia LEUNG Clerk to the House Committee

Staff in attendance :

Ms Pauline NG Secretary General
Mr Jimmy MA, JP Legal Adviser
Mrs Constance LI Assistant Secretary General 1

Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General 4
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Mr Stephen LAM	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Ms Clara TAM	Assistant Legal Adviser 9
Ms Judy TING	Council Secretary (2)6
Ms Theresa CHEUNG	Senior Legislative Assistant (2)2
Ms Anna CHEUNG	Senior Legislative Assistant (2)3

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- I. Proposal for a Legislative Council delegation to attend the Asian Parliamentary Assembly International Conference on Principles of Friendship and Cooperation in Asia and Ad Hoc Committee Meeting on the Protection of the Rights of Migrant Workers in Asia to be held in the Republic of Indonesia**
(LC Paper No. CB(2) 2502/10-11 issued vide LC Paper No. CB(2) 2503/10-11 dated 16 August 2011)

The Chairman said that the purpose of the special meeting was to discuss the proposal for the Legislative Council ("LegCo") to send a delegation to the Asian Parliamentary Assembly International Conference on Principles of Friendship and Cooperation in Asia ("APA Conference") and Ad Hoc Committee Meeting on the Protection of the Rights of Migrant Workers in Asia ("Ad Hoc Committee Meeting") to be held in the Republic of Indonesia. She explained the background to the proposal. The LegCo Secretariat received in early July 2011 a letter from the Speaker of the House of Representatives of the Republic of Indonesia ("the Indonesian House of Representatives") to the President of LegCo, inviting LegCo to send a delegation to the APA Conference and the Ad Hoc Committee Meeting to be held in the Republic of Indonesia from 28 to 29 September 2011. As the host Parliament, the Indonesian House of Representatives invited the LegCo delegation to participate in the Ad Hoc Committee Meeting as its Guest and to follow the APA Conference. The host Parliament would cover accommodation, meals and local transportation for two members of the delegation, who would have the right to speak at the Ad Hoc Committee Meeting. Other interested Members might join as additional members of the delegation but they had to bear their own expenses. Additional members of the delegation might speak at the Ad Hoc Committee Meeting with the consent of the members of the delegation. The invitation was passed to the Panel on Manpower ("the Panel") for consideration.

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2. At the invitation of the Chairman, Mr LEE Cheuk-yan, Chairman of the Panel, said that the main purpose of the APA Conference was to promote friendship and cooperation in Asia and the Ad Hoc Committee Meeting was held at the sideline of the APA Conference on 28 September morning. As the theme of the Ad Hoc Committee Meeting fell within the terms of reference of the Panel, the invitation from the Indonesian House of Representatives was referred to the Panel for consideration first. Given the difficulties in arranging a meeting to discuss the matter during the summer recess, the Clerk to the Panel ("the Panel Clerk") issued a circular to invite members to give views on the proposal for nominating two members to participate in the Ad Hoc Committee Meeting and to indicate whether they were interested in joining the delegation ("the circular"). The majority of the members who had responded to the circular were in favour of the proposal, and two Panel members, including himself and Mr WONG Sing-chi, had indicated interest in joining the delegation. The Panel then submitted a paper to the House Committee to seek its approval for the nomination of the two Panel members to participate in the Ad Hoc Committee Meeting. The House Committee sought Members' view on the proposal by circulation of paper. He noted that a Member was of the view that the proposed composition of the delegation was not a balanced representation and hence signified disapproval of the proposal. As such, the proposal was not deemed to be approved by the House Committee and the special House Committee meeting was therefore held to discuss the matter. He added that the deadline for nominating delegates was 28 August 2011.

3. At the invitation of the Chairman, Secretary General ("SG") extended an apology for the procedural errors made by the staff concerned in the handling of the matter. She explained that with the exception of the House Committee and the Finance Committee, where specific procedures had been provided in the Rules of Procedure ("RoP") for a matter to be considered by circulation of papers, it was quite rare for a committee to adopt this procedure in making a decision. On this occasion, the Panel Chairman had directed that the paper be circulated as it was summer recess and many members were already out of town. By the deadline for reply to the circular, two Panel members had indicated objection to the proposal. Making reference to the relevant provisions in RoP governing circulation of papers, the matter could not be deemed to be approved if any member had signified disapproval or requested that the matter be referred for decision at a meeting of the committee. In view of some members' objection, the matter ought to be considered at a meeting. Owing to time constraint, the Panel Chairman requested that the matter be discussed by the House Committee since the matter would eventually be referred to the House Committee for a decision.

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4. The Chairman added that another procedural error was that the invitation was supposed to be extended to all LegCo Members. It was referred to the Panel in the first instance for initial consideration as the theme of the Ad Hoc Committee Meeting was within the purview of the Panel. For invitations which were extended to all LegCo Members, all Members should be invited to join. However, only members of the Panel were invited to join the delegation but not all LegCo Members, and the circular about the matter was only copied to other LegCo Members for information. The Chairman requested the Secretariat to reflect on the matter and ensure that all LegCo Members were invited to participate in activities meant for all Members.

5. Dr Philip WONG said that he was the Member who had signified disapproval of the proposal. He noted from the invitation letter the request for LegCo to submit a paper on the protection of the rights of migrant workers in Hong Kong. As there were pending legal proceedings concerning the right of permanent residence of foreign domestic helpers ("FDHs") in Hong Kong which had aroused heated debate in the community, he considered it inappropriate for LegCo to send a delegation to the Ad Hoc Committee Meeting to present its position on the matter before the conclusion of the legal proceedings. He was also concerned that the view of the two Members nominated by the Panel might not represent that of LegCo. In the light of these considerations, he had signified disapproval of the proposal.

6. Mr IP Kwok-him said that he was a member of the Panel. He had not responded to the circular as he was out of town then. He sought information on the respective number of Panel members who had indicated approval and disapproval of the proposal. In his view, the circular had not stated clearly that Members participating in the Ad Hoc Committee Meeting were to represent LegCo. Given the diverse views of Members on the issue of protection of rights of migrant workers in Hong Kong, he considered it important for Members to discuss and arrive at a common stance on the issue if the delegation was to represent LegCo.

7. Dr Margaret NG considered it appropriate for the President to refer the invitation to the Panel for initial consideration. She said that after considering the invitation, the Panel should submit its proposal to the House Committee for endorsement. According to her recollection, the House Committee normally endorsed proposals put forward by Panels. Should any Member indicate disapproval, it would be for the House Committee to make the decision. In the present case, it was procedurally in order for the House Committee to convene a meeting to discuss the matter. In her view, Members participating in the Ad Hoc Committee Meeting should represent LegCo and should refrain from

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expressing their personal stance or that of the political grouping to which they belonged. Regarding the legal proceedings about the scope of the rights of migrant workers in Hong Kong, she considered that the LegCo delegates should only provide factual information and should not comment or express any views on the matter. She did not subscribe to the view that Members should not participate in the Ad Hoc Committee meeting owing to the pending legal proceedings. She added that it was for the House Committee to decide whether to accept the invitation and whether the two nominations proposed by the Panel should be the members of the delegation.

8. Ms Emily LAU expressed support for Members to participate in international conferences. She said that upon receiving the circular, she had contacted the Panel Clerk to indicate interest in joining the delegation. She was then informed that the invitation was mainly for Panel members. Subsequently, she was also advised that two Panel members had indicated interest in joining the delegation. Hence, she did not pursue any further. She considered it necessary for the Secretariat to rationalize the procedure for handling invitations to conduct duty visits. Noting from the invitation letter the request for LegCo to submit a paper on the protection of the rights of migrant workers in Hong Kong, she was concerned whether there had been relevant past discussions by LegCo or its committees on the matter. In her view, individual delegates could express their own views provided that they had so stated. She hoped that the House Committee would accept the invitation. As LegCo could send more than two delegates to the APA Conference and the Ad Hoc Committee Meeting, the House Committee would need to decide on the size and composition of the delegation.

9. Mr Ronny TONG said that it was common for members of a legislature to have different views on a matter. He did not see any problem with members of the LegCo delegation expressing their own views at the Ad Hoc Committee Meeting, provided they made it clear that Members had different views on the matter. Likewise, when he received overseas visitors to LegCo, he would express his own views but at the same time made it clear that there were other views on the matter. In no way were his views expressed at those meetings meant to be those of LegCo. Regarding the host Parliament's request for LegCo to submit a paper on protection of the rights of migrant workers in Hong Kong, he considered it necessary for Members to discuss who were to draft the paper and the stance to be conveyed therein. Once Members had agreed on the content of the paper for submission, the delegates could voice their own views at the Ad Hoc Committee Meeting provided that they would so state. He trusted that members of the delegation would reflect the different views of LegCo Members in a balanced and unbiased manner.

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He did not subscribe to the view that the composition of the delegation should include Members belonging to different political affiliations so as to ensure balanced representation.

10. In response to Mr Paul TSE, the Chairman said that the House Committee should first decide whether to accept the invitation. Should the House Committee agree to accept the invitation, Members should then decide on the composition of the delegation.

11. Mr Paul TSE expressed support for LegCo sending a delegation to participate in the Ad Hoc Committee Meeting. Noting that the host Parliament would cover the expenses of two members of the delegation, he considered that all interested Members should be able to join as additional members of the delegation and the relevant expenses of all members of the delegation should be shared out equally among themselves and charged to Members' Overseas Duty Visit ("ODV") accounts. He further said that the APA Conference and the Ad Hoc Committee Meeting were different from Members' meetings with overseas visitors. In the former, LegCo was officially invited to send a delegation to the APA Conference and the Ad Hoc Committee Meeting and to submit a paper, whereas the latter were ad hoc meetings with visitors. He considered that as LegCo was to submit a paper, the draft paper should be circulated to all Members for comments.

12. Mr LAU Kong-wah said that while appreciating the President's rationale for referring the invitation to the Panel for consideration, he was of the view that invitations extended to all Members should be considered by the House Committee first. He did not consider it appropriate or feasible to restrict members of the delegation to express their own views. As there could be diverse views on an issue, Dr Philip WONG's concern about the need to ensure balanced representation in the composition of the delegation was understandable. He added that he had no strong view on the size of the LegCo delegation.

13. Dr Philip WONG said that the Speaker of the Indonesian House of Representatives had clearly stated in his invitation letter that the Parliament would appreciate receiving a position paper from LegCo on the protection of the rights of migrant workers in Hong Kong. It would disappoint the host Parliament should LegCo fail to submit a position paper as requested. As the paper had not been compiled when the Panel's proposal was circulated for the House Committee's consideration, he had expressed objection to the proposal. He would tend to object to the proposal if LegCo could not compile the paper. Should the House Committee decide to accept the invitation, he was open-minded on the number of delegates provided that balanced representation of views could be ensured.

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14. Mr LEUNG Yiu-chung said that it was not always possible to ensure balanced representation of views, for instance, in cases where LegCo was invited to send only one representative. He pointed out that the host Parliament had only requested LegCo to submit a paper and not a position paper. In his view, it would be difficult for Members to agree on a position at this stage. Instead of setting out LegCo's position, the paper should provide factual information on the existing situation such as the legislation protecting the rights of migrant workers in Hong Kong. He was confident that members of the delegation who would represent LegCo to participate in the Ad Hoc Committee Meeting would express their views in a balanced manner.

15. At the invitation of the Chairman, SG explained that the invitation was referred to the Panel for initial consideration in accordance with the relevant provisions in the House Rules which provided that any visit proposed in response to an invitation should first be discussed by the relevant committee to determine whether the visit was related to the business of LegCo. The committee concerned should also deliberate on the logistical arrangements, including the Members to take part in the visit. Regarding the number of delegates, the host Parliament had advised that during the APA Conference and the Ad Hoc Committee Meeting, there would be two chairs for the two members of the delegation who would have the right to speak. Separate seats would be arranged for additional delegates who might speak with the consent of the delegation. The host Parliament had also clarified that the LegCo delegation was invited to participate in the Ad Hoc Committee Meeting as its Guest and might follow the APA Conference but not participate in it. According to the host Parliament, the paper was to facilitate the sharing of experiences and best practices on protection of migrant workers among participants of the Ad Hoc Committee Meeting. The Research Division of the LegCo Secretariat had prepared the draft outline of the paper, which contained only factual information on the situation in Hong Kong.

16. Mrs Sophie LEUNG said that while the Panel had considered the invitation and had come up with two nominations for the delegation, it was for the House Committee to decide whether to approve the Panel's proposal. She considered the invitation a precious opportunity for LegCo to exchange views and share the best practices of protecting migrant workers with other parliaments. She shared Dr Philip WONG's concern about balanced representation of views and supported the suggestion that all interested Members should be allowed to join as additional members of the delegation.

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17. Mr CHIM Pui-chung was concerned whether the host Parliament was aware of the political structure of the Hong Kong Special Administrative Region ("HKSAR") in that LegCo was not part of the HKSAR Government and the paper to be submitted by LegCo did not represent the views of the HKSAR Government. In his view, as members of the delegation would represent LegCo, they should at least present the majority, if not the unanimous, views of LegCo Members at the Ad Hoc Committee Meeting. He considered that the House Committee should discuss the invitation only after the draft paper had been circulated to all Members for comments.

18. The Chairman said that the APA Conference was for parliaments, and not executive authorities.

19. Mr LEE Cheuk-yan said that the Research Division of the LegCo Secretariat had prepared a draft outline of the paper to be submitted by LegCo to the Ad Hoc Committee Meeting. As set out in the draft outline which was tabled at the meeting, the paper would provide only factual information, such as the types and number of migrant workers in Hong Kong, the relevant legislation and support services provided by various organizations. He pointed out that the Panel had not discussed the subject of protection of migrant workers in Hong Kong per se, but had raised related issues in the context of its discussions on Statutory Minimum Wage. He was aware that as the representative of LegCo, he should present the views of LegCo Members at the Ad Hoc Committee Meeting and it was not appropriate for him to voice his personal views at the official discussion forum. He considered that LegCo was invited to the Ad Hoc Committee Meeting because Hong Kong had good records on protection of rights of migrant workers. He was concerned about the high commission fee required to be paid by Indonesian domestic helpers to the employment agencies at their places of origin and would express his personal views in private exchanges with delegates of other places. To address Members' concern about the paper, he suggested that the Panel might hold a special meeting to discuss the draft paper once available, and all Members would be invited to attend the meeting to give views. While agreeing that other interested Members might join the delegation as additional Members, he considered it necessary for the House Committee to decide on which two Members should be the first two delegates.

20. Mr Ronny TONG said that in considering the number of delegates to be sent by LegCo, Members should also take into account whether the host Parliament was able to make arrangements for receiving additional delegates. In his view, it would be disrespectful to the host Parliament if LegCo was to send a large number of delegates. He considered that

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priority should be given to members of the Panel in joining the delegation, and Mr LEE Cheuk-yan, as the Panel Chairman, should be one of the two members of the delegation.

21. Ms Emily LAU said that Members' expression of personal views should be respected. She echoed Mr LEE Cheuk-yan's view on the approach that should be taken by the LegCo delegates in presentation of views at the Ad Hoc Committee Meeting. She considered such an approach reasonable.

22. Mr IP Kwok-him considered it necessary for Members to agree on the scope and content of the paper to be submitted by LegCo to the Ad Hoc Committee Meeting. He shared the view that the draft paper should be circulated to all Members for comments before submitting to the host Parliament. He supported sending a LegCo delegation to the Ad Hoc Committee Meeting provided that the content of the paper was agreed to by all Members. He agreed that all other interested Members should be allowed to join as additional members of the delegation.

23. Mr Paul TSE also considered that the draft paper should be circulated to all Members for comments. As it was stated in the invitation letter that additional delegates were welcomed but they had to bear their own expenses, it would not be disrespectful for LegCo to send additional delegates. He reiterated that all interested Members should be allowed to join as additional delegates.

24. Mrs Sophie LEUNG said that the House Committee should consider the two nominations of the Panel and whether there should be other delegates.

25. Ir Dr Raymond HO considered that it should be made a standing arrangement for all papers submitted by LegCo to international conferences to be circulated to all Members for comments.

26. The Chairman said that the mechanism for handling invitations to conduct overseas duty visit or attend overseas conferences should be set out clearly on paper.

27. Dr Priscilla LEUNG was concerned whether the discussion at the Ad Hoc Committee Meeting might touch upon the recent dispute over FDHs' right of permanent residence in Hong Kong which was highly controversial. Since there were pending legal proceedings, she considered it not appropriate for LegCo or its Members to comment or express any views on the matter. She sought clarification on whether the paper would touch upon the matter.

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28. The Chairman suggested stating in the paper that there were pending legal proceedings concerning FDHs' right of permanent residence in Hong Kong.

29. Mr LEE Cheuk-yan reiterated that Members would have the opportunity to comment on the draft paper. The views of LegCo to be expressed by the delegation at the Ad Hoc Committee Meeting would be based on the content of the paper.

30. Dr Margaret NG said that in preparing papers for LegCo and its committees, the LegCo Secretariat had all along adopted a neutral stance and different views expressed by Members would be set out in an objective manner. She trusted that the LegCo Secretariat would do the same in preparing the paper for submission to the Ad Hoc Committee Meeting.

31. At the invitation of the Chairman, SG said that apart from factual information, relevant past discussions by LegCo committees, if any, would also be set out in the paper. Factual information on the recent dispute over FDH's right of permanent residence in Hong Kong could also be included in the paper if considered necessary by Members.

32. Dr Priscilla LEUNG considered that there should be consensus among Members for the LegCo delegates not to express any views on the dispute over FDH's right of permanent residence in Hong Kong at the Ad Hoc Committee meeting.

33. Mr WONG Kwok-kin said that as the invitation was extended to all Members and the decision was to be made by the House Committee, he considered it more appropriate for the House Committee, instead of the Panel, to hold a special meeting to discuss the matter. He added that sufficient time should be allowed for Members to indicate their interest in joining the delegation.

34. Mr CHIM Pui-chung said that the high commission fee required to be paid by Indonesian domestic helpers was an internal affair of Indonesia with which LegCo should not interfere.

35. Ms Emily LAU enquired whether arrangement would be made for a staff member of the LegCo Secretariat to accompany the delegation. She considered that this would be an opportunity to broaden the horizon of the Secretariat staff. SG replied in the affirmative.

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36. Mr LEE Cheuk-yan said that the special Panel meeting was to discuss the draft paper, and not the composition of the delegation which was for the House Committee to decide. He clarified that the high commission fee to which he referred was not imposed by the Indonesian Government but the employment agencies. His reference to the matter would facilitate the Indonesian Government to enforce its law.

37. The Chairman put to vote the proposal for LegCo to accept the invitation, on the understanding that a paper should be prepared by the LegCo Secretariat based on the draft outline tabled at the meeting. The draft paper would be discussed at a special meeting of the Panel and all Members would be invited to attend the Panel meeting to give views. The majority of Members indicated support for the proposal and two Members abstained.

38. The Chairman then invited Members' views on the size and composition of the delegation.

39. Mr IP Kwok-him said that the House Committee should decide on the two members of the delegation who had the right to speak. Other interested Members could join as additional members of the delegation. Members agreed.

40. Prof Patrick LAU and Mr Jeffrey LAM nominated Ms Miriam LAU to be a member of the delegation and the nomination was seconded by Mrs Sophie LEUNG.

41. Ms Emily LAU nominated Mr LEE Cheuk-yan to be a member of the delegation and the nomination was seconded by Mr Ronny TONG.

42. Mr LEE Cheuk-yan nominated Mr WONG Sing-chi to be a member of the delegation and the nomination was seconded by Ms Emily LAU.

43. Members agreed that Ms Miriam LAU, Chairman of the House Committee, and Mr LEE Cheuk-yan, Chairman of the Panel on Manpower, should be the two members of the delegation, while Mr WONG Sing-chi would be an additional member of the delegation.

44. Members also agreed that other interested Members could indicate their wishes to join as additional members by responding to a circular to be issued by the LegCo Secretariat within a day. All relevant expenses to be incurred would be charged to the respective Members' ODV accounts.

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45. In response to Ms Emily LAU, SG said that the host Parliament had advised that no limit was set on the number of additional delegates who had to bear their own expenses. Arrangements would be made for all delegates to stay in the same hotel.

46. There being no other business, the meeting ended at 12:16 pm.

[Post-meeting note: The invitation letter dated 24 June 2011 from the Indonesian House of Representatives to LegCo and the draft outline of the paper to be submitted by LegCo to the Ad Hoc Committee Meeting, which were tabled at the meeting, were issued to Members vide LC Paper Nos. CB(2) 2574/10-11(01) and (02) respectively on 2 September 2011. The circular for inviting Members to join as additional members of the delegation was issued vide LC Paper No. CB (2)2571/10-11 on 1 September 2011.]

Council Business Division 2
Legislative Council Secretariat
6 October 2011