

立法會
Legislative Council

LC Paper No. CB(2) 707/11-12

Ref : CB2/H/5/11

House Committee of the Legislative Council

**Minutes of the 9th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 16 December 2011**

Members present:

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
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 WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, 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 Andrew LEUNG Kwan-yuen, 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 Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip

Members absent:

Dr Hon David LI Kwok-po, GBM, GBS, JP
Dr Hon Margaret NG
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon Tanya CHAN
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
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
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
Miss Carrie WONG	Assistant Legal Adviser 4
Ms Wendy KAN	Assistant Legal Adviser 6
Ms Clara TAM	Assistant Legal Adviser 9
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Josephine SO	Senior Council Secretary (2)7
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

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I. Confirmation of verbatim transcript/minutes of meetings

(a) **Verbatim transcript of the special meeting held on 11 November 2011**

(LC Paper No. CB(2) 614/11-12)

(b) **Minutes of the 8th meeting held on 9 December 2011**

(LC Paper No. CB(2) 579/11-12)

The two sets of verbatim transcript/minutes of meetings were confirmed.

II. Matters arising

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

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

(b) **Legislation Publication Ordinance (Commencement) Notice 2011**

(Letter dated 6 December 2011 from the Department of Justice (LC Paper No. CB(2) 518/11-12(01) issued vide LC Paper No. CB(2) 518/11-12 dated 7 December 2011))

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*[Previous papers:
paragraphs 36 to 40 of LC Paper No. LS 7/11-12 issued vide LC
Paper No. CB(2) 402/11-12 dated 24 November 2011; and
paragraphs 11 to 13 of the minutes of the 6th House Committee
meeting held on 25 November 2011 (LC Paper No. CB(2)
442/11-12 issued vide LC Paper No. CB(2) 456/11-12 dated 30
November 2011)]*

3. The Chairman said that at the House Committee meeting on 25 November 2011, Members agreed to request the Administration to provide information to explain the provisions to be commenced in relation to other uncommenced provisions of the Legislation Publication Ordinance and their commencement arrangements. The written response from the Department of Justice dated 6 December 2011 had been circulated to Members.
4. Members did not raise further queries on the Legislation Publication Ordinance (Commencement) Notice 2011 (L.N. 164).
5. The Chairman reminded Members that the deadline for amending L.N. 164 was 21 December 2011.

III. Business arising from previous Council meetings

- (a) **Legal Service Division report on bill referred to the House Committee in accordance with Rule 54(4)**

**Mandatory Provident Fund Schemes (Amendment) (No. 2)
Bill 2011**
(LC Paper No. LS 16/11-12)

6. The Chairman said that the Bill sought to provide for a statutory regulatory regime for Mandatory Provident Fund intermediaries. The Panel on Financial Affairs had been consulted on the legislative proposals on 4 April 2011 and members had expressed various concerns.
7. Mr IP Wai-ming considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Mr LEE Cheuk-yan, Ms Cyd HO, Mr WONG Sing-chi and Mr IP Wai-ming.
8. The Chairman said that the Bills Committee would be placed on the waiting list.

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(b) **Legal Service Division report on subsidiary legislation gazetted on 9 December 2011 and tabled in Council on 14 December 2011**

(LC Paper No. LS 15/11-12)

9. The Chairman said that a total of three items of subsidiary legislation were gazetted on 9 December 2011 and tabled in the Council on 14 December 2011, i.e. Harmful Substances in Food (Amendment) Regulation 2011 (L.N. 173), Pilotage (Dues) (Amendment) Order 2011 (L.N. 174) and Port Control (Public Cargo Working Area) Order 2011 (L.N. 175).

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

11. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 11 January 2012.

IV. Further business for the Council meeting of 21 December 2011

(a) **Tabling of papers**

Report No. 7/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 581/11-12 issued vide LC Paper No. CB(3) 261/11-12 dated 15 December 2011)

12. The Chairman said that the Report covered 11 items of subsidiary legislation, the period for amendment of which would expire on 21 December 2011. No Member had indicated intention to speak on the subsidiary legislation.

13. Members noted the Report.

(b) **Questions**

(LC Paper No. CB(3) 254/11-12)

14. The Chairman said that Mr WONG Yung-kan and Mr Ronny TONG had replaced their oral questions.

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

Enduring Powers of Attorney (Amendment) Bill 2011

15. The Chairman said that the relevant Bills Committee had reported to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

V. Report of Bills Committees and subcommittees

**(a) Report of the Bills Committee on Guardianship of Minors
(Amendment) Bill 2011**

(LC Paper No. CB(2) 588/11-12)

16. Ms Cyd HO, Chairman of the Bills Committee, reported on the deliberations of the Bills Committee as detailed in its report. She explained that the Bill sought to implement the recommendations made in the Report on Guardianship of Children published by the Law Reform Commission ("LRC") in January 2002. Members of the Bills Committee expressed concern that the Administration had taken almost 10 years to respond to the recommendations in the LRC Report and considered the Bill long overdue.

17. Ms Cyd HO elaborated that the Bills Committee had held five meetings and had met with representatives from the Hong Kong Bar Association, The Law Society of Hong Kong, the Hong Kong Federation of Women Lawyers and the Family Law Association. The main issues discussed by the Bills Committee included the legal arrangements for appointment and removal of guardians; revocation and disclaimer of guardian appointment; assumption of guardianship; and resolution of disputes between guardians. In response to members' views, the Administration agreed to move Committee Stage amendments ("CSAs") to clarify the provisions, reflect better the policy intent, and achieve textual consistency.

18. Ms Cyd HO further reported that the Bills Committee had also examined the proposed form for appointment of guardians which was based on the recommendations of LRC. The Administration had taken on board members' suggestions to improve the design of the form. She added that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 11 January 2012.

19. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Saturday, 31 December 2011.

(b) Report of the Subcommittee on the Three Orders Made under Section 49(1A) of the Inland Revenue Ordinance and Gazetted on 18 November 2011

20. Mr James TO, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. He said that the three Orders were made under section 49(1A) of the Inland Revenue Ordinance (Cap. 112) to give effect to the comprehensive agreements for avoidance of double taxation ("CDTAs") signed between the Government of the Hong Kong Special Administrative Region ("HKSARG") and the Government of the Portuguese Republic, the Kingdom of Spain and the Czech Republic respectively.

21. Mr James TO reported that the Subcommittee had held two meetings. Members noted the provision stating that "information shall not be disclosed to any third jurisdiction for any purpose" in the respective Exchange of Information ("EoI") Article of each of the three CDTAs. Members had examined whether HKSARG's obligations under the EoI Articles were affected by other bilateral agreements in place such as the agreements for mutual legal assistance in criminal matters ("MLA") signed between HKSARG and third jurisdictions, and whether the court and the executive authorities of HKSARG could disclose the information exchanged to a third jurisdiction under certain circumstances. The Administration had provided relevant information for the Subcommittee's consideration and members generally agreed to the Administration's views.

22. Mr James TO further reported that the Subcommittee noted that each of the CDTAs contained an Article on Entry into Force providing for when the tax arrangements under the CDTAs would enter into force. The current approach was that upon the entry into force of a CDTA, the Inland Revenue Department ("IRD") would publish an announcement on its website for public information. The legal adviser to the Subcommittee expressed concern about the current approach and suggested that the Administration should make reference to the approach adopted for the MLA Orders and Fugitive Offenders ("FO") Orders. The Administration held a different view and considered the current approach legally in order. The Administration also pointed out that should the approach for the MLA Orders and FO Orders be adopted, the effective date of the tax arrangements under a CDTA could, in the most extreme cases, be delayed by one whole year. Having considered the Administration's views, the legal adviser to the Subcommittee raised concern as to whether the announcement published by IRA on its website on the commencement of a CDTA constituted a piece of subsidiary legislation. The Administration had been requested to provide a written response.

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23. Mr James TO said that pending receipt of the Administration's response, the Subcommittee would consider the need to hold a further meeting and to make any change to the existing commencement arrangement. He added that the Subcommittee supported the policy intent of the three Orders and would provide a written report later.

(c) **Report of the Subcommittee on Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011 and Civil Aviation (Aircraft Noise) (Certification) (Amendment) Regulation 2011**

24. Mr LEE Cheuk-yan, Chairman of the Subcommittee, reported that the Subcommittee had held a meeting and would hold another one on 20 December 2011 to receive views from the relevant trades and the public.

25. Mr LEE Cheuk-yan said that the Subcommittee was concerned about the noise nuisance to residents of Ma Wan and Sham Tseng caused by cargo planes taking off and landing during night time. Members suggested that the Administration should consider imposing progressively a higher landing charge for noisier aircrafts to encourage airlines to use aircrafts with a lower noise level. The Administration was concerned about possible impact on the operation of airlines and Hong Kong's competitiveness as a regional aviation hub.

26. Mr LEE Cheuk-yan further said that members had requested the Administration to provide information on other jurisdictions in respect of banning certain types of aircrafts from taking off and landing at airports and setting different take off and landing times and imposing different levels of landing charges for different types of aircrafts.

27. Mr LEE Cheuk-yan added that as the deadline for amending the two Amendment Regulations had been extended by resolution to 11 January 2012, the deadline for giving notice of amendments, if any, was 4 January 2012. The Subcommittee would provide a written report after completing its work.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 580/11-12)

28. The Chairman said that there were 15 Bills Committees, nine subcommittees under House Committee (i.e. four subcommittees on subsidiary legislation, two subcommittees on policy issues and three subcommittees on other Council business) and eight subcommittees under Panels in action.

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29. The Chairman further said that as there was one vacant slot after a Bills Committee had reported under agenda item V(a) above, the Bills Committee on Buildings Legislation (Amendment) Bill 2011 on the waiting list could commence work.

VII. Priority allocation of a debate slot to the Chairman of the Panel on Security

(LC Paper No. CB(2) 582/11-12)

30. At the invitation of the Chairman, Mr James TO, Chairman of the Panel on Security ("the SE Panel"), said that the Panel had agreed to seek the House Committee's approval for priority allocation of a debate slot to him, in his capacity as Panel Chairman, for moving a motion for debate on the Annual Report 2010 to the Chief Executive by the Commissioner on Interception of Communications and Surveillance ("the Annual Report") at the Council meeting of 18 January 2012. He elaborated that the SE Panel had discussed at its meetings on 5 and 6 December 2011 the results of the Administration's study of matters raised in the Annual Report. Members noted with concern that although the recommendation to amend the Interception of Communications and Surveillance Ordinance (Cap. 589) ("ICSO") to expressly authorize the Commissioner on Interception of Communications and Surveillance ("the Commissioner") and his staff to examine and listen to interception products, and to inspect and listen to products of covert surveillance as and when necessary had been made by the Commissioner since 2009 and members had called on the Administration to adopt the Commissioner's proposal for two years, no action had been taken by the Administration to implement the recommendation. It was not until recently that the Administration started to consult relevant stakeholders, such as the legal professional bodies, on how to take forward the Commissioner's proposal. Panel members were of the view that the Administration should implement the proposal as soon as possible to enable discovery of contravention of ICSO by law enforcement agencies ("LEAs") and provide the necessary deterrence against any malpractice or concealment by LEAs.

31. Mr James TO further said that in view of the wide public concern about the Annual Report, the Panel considered that an opportunity should be provided for all Legislative Council ("LegCo") Members to express their views on it and for the Administration to provide its response. The SE Panel therefore sought the approval of the House Committee for priority allocation of a debate slot under rule 14A(h) of the House Rules ("HR") to its Chairman for moving a motion for debate on the Annual

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Report at the Council meeting of 18 January 2012. The motion debate should be held as early as practicable so that the Administration could take into account the views expressed by Members during the debate in its review on ICSO and introduce the relevant legislative proposals into LegCo within the current legislative session. Mr TO referred Members to the neutrally worded motion as set out in the Appendix to the paper and appealed to Members to support the Panel's request.

32. The Chairman said that the speaking time limits for the proposed motion debate were 15 minutes for the mover of the motion and seven minutes for other speakers. Should the House Committee accede to the SE Panel's request, the debate slot would not be counted as Mr James TO's own slot. The House Committee should also decide whether there should be one or two other motion debates without legislative effect at the Council meeting of 18 January 2012.

33. Mrs Regina IP sought information on precedents and the criteria for considering requests from committees for priority allocation of debate slots.

34. At the invitation of the Chairman, Secretary General said that pursuant to HR 14A(h), a committee might, in accordance with its decision, put forward a request for priority allocation of a debate slot to its chairman for the consideration of the House Committee on a case-by-case basis. Such motions for debate were normally neutrally-worded. Should the House Committee accede to such a request, the slot so allocated would not be counted as the mover's own slot. The House Committee had considered at its meetings on 21 April 2006 and 7 January 2011 respectively the requests of the Panel on Welfare Services for allocation of debate slots to its Chairman for moving motions respectively on the financial assistance to patients of Severe Acute Respiratory Syndrome and their families and the Equal Opportunities Commission's Formal Investigation Report on Accessibility in Publicly Accessible Premises and had acceded to both requests.

35. In response to Mrs Regina IP, Mr James TO said that the SE Panel had agreed to seek the approval of the House Committee for priority allocation of a debate slot to its Chairman for moving the proposed motion. The wording of the proposed motion was neutral to enable Members to freely express their views on the matter. While Members could move amendments to a motion for debate the slot of which was allocated by the House Committee, they normally did not do so.

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36. Ms Emily LAU expressed support for the SE Panel's request, given the importance of the issues raised in the Annual Report. She opined that should Members accede to the request, there should be only one other Members' motion without legislative effect at the Council meeting of 18 January 2012 to enable more focused discussions.

37. Mr WONG Kwok-kin said that he was a member of the SE Panel but he could not recall the discussion and the decision made by the Panel on the request. He sought confirmation on whether the request had been put to vote at the Panel meeting.

38. Mr James TO said that when the SE Panel discussed the Annual Report at its meeting on 5 December 2011, a proposal was raised to seek the agreement of the House Committee for priority allocation of a debate slot on the Annual Report at a Council meeting. Members were informed at that meeting that about 15 minutes would be allocated for the discussion of the proposal at the Panel meeting on 6 December 2011. At the start of the Panel meeting on 6 December, he reminded members that the proposal would be considered under the last discussion item. The Panel agreed at that meeting to seek the approval of the House Committee for priority allocation of a debate slot to its Chairman for moving a motion for debate on the Annual Report at a Council meeting.

39. Mr Paul TSE considered it necessary to set out the criteria for considering requests for priority allocation of debate slots to committee chairmen. He pointed out that many reports were released by public or statutory bodies and queried whether a slot should be allocated for debate on each and every such report. In his view, priority allocation of a debate slot to a committee chairman was in effect jumping the queue for debate slots. There should be clear and specific criteria for considering such requests, such as whether the subject matter for debate was urgent or of great public importance.

40. The Chairman drew Members' attention to HR 14A(h) which provided that committees and subcommittees of the Council might request for priority allocation of debate slots and such requests should be put forward to the House Committee for consideration on a case-by-case basis.

41. Mr LAU Kong-wah said that there was indeed an agenda item on the proposal at the SE Panel meeting on 6 December. At that meeting, members had discussed the proposal and expressed the view that the motion debate on the Annual Report should be held at a Council meeting after they had received the Administration's written response to their

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questions raised at the Panel meetings to facilitate a more fruitful debate. He had requested information on the proposed amendments to ICSO. He recalled that there was neither discussion nor conclusion at the Panel meeting on the date of the Council meeting for holding the motion debate. He considered that if the requisite information including the proposed legislative amendments could be made available for the Panel's consideration at its next meeting scheduled for 3 January 2012, it might be appropriate to hold the proposed motion debate at the Council meeting of 18 January 2012; otherwise, there would be inadequacy in information. In his view, it would be a better arrangement for the Panel to discuss the date for holding the motion debate.

42. Mr James TO said that subsequent to members' agreement at the Panel meeting on 6 December to seek the approval of the House Committee for priority allocation of a debate slot for moving a motion for debate on the Annual Report at a Council meeting, he had sought members' views on the date of the Council meeting for holding the motion debate by circulation of paper. He elaborated that a circular was issued last week to invite members' views on the submission of the Panel's proposal to the House Committee for consideration at the meeting on 16 December 2011 for the priority allocation of a debate slot for moving a motion for debate on the Annual Report at the Council meeting of 18 January 2012. He recalled that a Council meeting date in February 2012 had also been mentioned in the circular as an alternative date for holding the motion debate for members' consideration. As he had not received any views from members on the proposal of holding the motion debate at the Council meeting of 18 January, the proposal was therefore submitted to the House Committee for consideration.

43. Mr LEE Cheuk-yan said that committees played an important role in the work of LegCo, and Members should respect proposals put forward by committees. He considered it inappropriate to impose too many restrictions on priority allocation of debate slots and that it should be for the committees themselves to decide whether the raising of such a request to the House Committee was warranted.

44. Mr Ronny TONG shared the view that Members should respect the proposal put forward by the SE Panel, unless there were strong grounds for objecting to the proposed holding of a motion debate on the Annual Report. Mr TONG also suggested that given the large size of the conference room, Members should use the "Request-to-speak" button, instead of raising their hands, to indicate their intention to speak.

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45. Mr IP Kwok-him said that whether he had received the said circular had to be ascertained. He did not subscribe to the view that committees' requests for moving motion debates on their reports or those published by the Government or public bodies should be accorded priority necessarily. He pointed out that any priority allocation of debate slots by the House Committee would affect Members' opportunities for moving motion debates at the Council meeting concerned. Should more than two Members' motions without legislative effect were to be held at the same Council meeting, the meeting would last longer and the debates might not attract public interest. He shared the view that it was necessary to lay down specific criteria for considering priority allocation of debate slots to prevent abuse of the mechanism. In his view, Members who wished to debate on a subject matter should apply for allocation of debate slots in their individual capacity.

46. The Chairman said that should Members accede to the request of the SE Panel, the House Committee would consider whether there should be one or two other motion debates without legislative effect at that Council meeting.

47. Mrs Sophie LEUNG considered that the SE Panel should have adopted a more prudent approach in deciding the date for holding the proposed motion debate on the Annual Report. Instead of seeking members' views by circulation of paper, she considered it more appropriate to discuss the matter at a Panel meeting. She did not see any urgency in holding the motion debate at the Council meeting of 18 January 2012, and shared the view that the Panel should wait for the Administration's written response first.

48. Mr James TO reiterated that the SE Panel had agreed at its meeting on 6 December 2011 to seek the approval of the House Committee for priority allocation of a debate slot to its Chairman for moving a motion for debate on the Annual Report at a Council meeting. Regarding the date of the Council meeting at which the motion debate was to be held, the meeting agreed that it be left to the Panel Chairman after discussion with the Administration on the timing for its provision of the requisite information to the Panel. After the meeting, the Administration had indicated to the Panel Clerk that it would provide the requisite information as far as practicable before the next Panel meeting scheduled for 3 January 2012. Under these circumstances, he had proposed that the motion debate be held on 18 January. He further pointed out that Panel members considered the subject matter important and that the Administration should expedite the introduction of the legislative amendments to implement the Commissioner's recommendation.

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Therefore, the motion debate should be held as early as practicable. He believed that Members would have sufficient time to consider the information provided by the Administration before the motion debate.

49. Ms Cyd HO said that Mr LAU Kong-wah had expressed his view at the Panel meeting that the motion debate on the Annual Report should be held at a Council meeting after the provision of the requisite information by the Administration. However, she recalled that most of the members present during the discussion on the proposal agreed that the motion debate should be held at the earliest opportunity, so that the Administration could take into consideration the views expressed by Members during the motion debate in finalizing the legislative proposals for amending ICSO. No member had indicated objection at the meeting to the proposal for seeking the House Committee's agreement to allocate a priority debate slot to the Panel Chairman for moving a motion for debate on the Annual Report. It was on this basis that the Chairman of the SE Panel had subsequently sought members' views on the proposed Council meeting date for holding the motion debate by circulation of paper.

50. The Chairman sought Members' view on whether they were supportive of the SE Panel's request for priority allocation of a debate slot to its Chairman for moving a motion for debate on the Annual Report at the Council meeting of 18 January 2012. As no Member had indicated objection, the Chairman declared that the proposal of the SE Panel was supported by the House Committee.

51. The Chairman then invited Members' view on the number of other Members' motion debates without legislative effect to be held at that Council meeting.

52. Mrs Sophie LEUNG and Mr TAM Yiu-chung considered that only one other Members' motion without legislative effect should be held at that Council meeting. Members agreed to such an arrangement.

53. Mr LAU Kong-wah said that he had checked on the circular issued to SE Panel members last week and noted that it had not set out any options on the date of the Council meeting for holding the motion debate for members' consideration. He considered this an important piece of information for the House Committee's consideration of the Panel's request. He considered it more appropriate for the SE Panel to decide on the date of the Council meeting for holding the motion debate after members had considered the information provided by the Administration at the Panel meeting on 3 January 2012.

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54. Mr James TO said that it had been made clear in the circular that if no views were received from SE Panel members by 4:00 pm on 13 December 2011, a paper on the Panel's proposal to seek the House Committee's approval for the priority allocation of a debate slot to the Panel Chairman for moving a motion at the Council meeting of 18 January 2012 would be submitted to the House Committee for consideration on 16 December 2011.

55. The Chairman said that while Members had made a decision on the SE Panel's request, the matter could be reported to the House Committee for consideration should there be any new developments after the Panel meeting on 3 January.

VIII. Proposal to set up a subcommittee under the House Committee concerning prevention of the recurrence of the fire tragedy in Fa Yuen Street

(Letter dated 13 December 2011 from Hon LEE Cheuk-yan, Hon Cyd HO and Hon CHEUNG Kwok-che to the Chairman of the House Committee (LC Paper No. CB(2) 599/11-12(01))

56. On behalf of Ms Cyd HO and Mr CHEUNG Kwok-che, Mr LEE Cheuk-yan explained their proposal to set up a subcommittee under the House Committee concerning prevention of recurrence of the fire tragedy in Fa Yuen Street. He elaborated that the fire tragedy resulting in nine persons dead and 34 injured had unveiled the social conflicts in Hong Kong. They therefore proposed the appointment of a subcommittee under the House Committee to study the following issues: management of and support to hawker stalls; measures to address the housing needs of grass-root people; fire safety in old buildings; and rehousing of fire victims. Mr LEE pointed out that while issues relating to the fire tragedy were being followed up by the relevant Panels, a subcommittee set up under the House Committee would provide a dedicated platform for in-depth discussions on the issues which straddled the policy areas of various Panels with a view to coming up with recommendations. He appealed to Members to support their proposal.

57. Prof Patrick LAU said that the Subcommittee on Building Safety and Related Issues ("the Building Safety Subcommittee") under the Panel on Development was tasked to study building safety enhancement and related issues. Immediately after the fire incident in Fa Yuen Street, the Subcommittee had invited the Administration to attend a meeting on 8 December 2011 to discuss the building safety-related issues in the fire incident. As the Building Safety Subcommittee would continue to

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follow up the matter with the Administration, he was concerned whether the work of the proposed subcommittee, if formed, would overlap with that of the Subcommittee. Instead of forming a new subcommittee, he considered that the issues relating to the fire in Fa Yuen Street could be followed up by the Building Safety Subcommittee and interested Members could participate in the discussions of the Subcommittee.

58. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") did not support the proposal for setting up a subcommittee under the House Committee to study the issues concerning the fire in Fa Yuen Street. As the relevant Panels and the Building Safety Subcommittee were already looking into issues falling within their respective purview, Members belonging to DAB considered it not necessary to set up another subcommittee. He pointed out that the issues of hawker stall management, housing needs of grass-root people and safety of old buildings were followed up by the Panel on Food Safety and Environmental Hygiene ("the FSEH Panel"), the Panel on Housing and the Building Safety Subcommittee respectively. Furthermore, the proposed subcommittee, if formed, would be placed on the waiting list and could not commence work immediately. Given the wide scope of work of the proposed subcommittee and the complexity of the issues involved, the subcommittee would unlikely complete work within a short period of time. In Mr IP's view, it would be more effective for the relevant Panels and the Building Safety Subcommittee to continue to follow up the issues.

59. The Chairman said that there was currently one subcommittee on policy issues on the waiting list, i.e. the Subcommittee on Health Protection Scheme under the Panel on Health Services. The proposed subcommittee, if formed, would also be placed on the waiting list.

60. Dr Priscilla LEUNG considered that the most important issue was the provision of immediate assistance to victims of the fire tragedy, including the affected residents, stall owners and operators. She had attended meetings of two different committees to discuss issues concerning the fire tragedy and had to repeat her views and concerns at these meetings. In her view, this was not conducive to efficient discussion of issues arising from the fire tragedy. She expressed support for the appointment of a subcommittee under the House Committee to enable more focused and coordinated discussion on the issues concerned with a view to expeditiously addressing the needs of the fire victims.

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61. Mr LEUNG Yiu-chung said that he was particularly concerned about the provision of relief to victims of the fire tragedy, including the affected tenants who needed rehousing. He sought clarification on whether the terms of reference of the Building Safety Subcommittee could cover all the issues to be studied by the proposed subcommittee.

62. Prof Patrick LAU said that the terms of reference of the Building Safety Subcommittee was wide. It was tasked to study not only building safety enhancement but also related issues. Given that the affected tenants needed rehousing due to building safety problems, he considered it within the purview of the Subcommittee to discuss the rehousing needs of the victims.

63. Mr Tommy CHEUNG said that Members belonging to the Liberal Party did not support the proposal as the issues concerning the fire tragedy were being followed up by the relevant committees. For instance, the FSEH Panel had discussed the management of fixed hawker pitches at Fa Yuen Street at its meeting on 13 December 2011. Given that the proposed subcommittee, if formed, would be placed on the waiting list and with only a few months before the expiry of the current term of LegCo, he considered it more appropriate for the relevant committees to follow up the issues.

64. Mr James TO said that after the fire incident, he had proposed discussion on the fire safety of hawker stalls and old buildings by the SE Panel. Some members from the pro-establishment camp did not support his proposal on the ground that the issues concerning the fire tragedy, which straddled the policy areas of a number of Panels, should be discussed by a subcommittee formed under the House Committee. However, a different view was expressed at the House Committee meeting. He was confused as to which approach should be adopted to discuss the issues relating to the fire in Fa Yuen Street.

65. Ms Audrey EU said that Members belonging to the Civic Party supported in principle the proposal in order to follow up in a focused manner issues relating to the fire tragedy in Fa Yuen Street. However, they were concerned that the proposed subcommittee, if formed, had to be placed on the waiting list. As the Fourth LegCo was drawing to a close and given the many issues involved, she considered it more practicable for the relevant committees to follow up the issues within their respective purview. As the most pressing issues were the rehousing arrangements for the fire victims and the management of hawker stalls, she hoped that the relevant Panels could discuss these issues as soon as possible.

Action

66. Mr LAU Kong-wah clarified that at the SE Panel meeting, he had not proposed the appointment of a subcommittee under the House Committee to study issues relating to the fire tragedy in Fa Yuen Street. Instead, he had suggested inviting Chief Secretary for the Administration ("CS") to attend a special meeting of the House Committee to brief Members on the follow-up work undertaken by the Administration after the fire tragedy. After the briefing by CS, the relevant Panels could follow up the relevant issues under their respective purview. He considered it not necessary to form a subcommittee under the House Committee.

67. Mr CHAN Kam-lam noted from the joint letter from the three Members that the proposed appointment of a subcommittee was to avoid the recurrence of similar incidents in the future and the scope of work of the proposed subcommittee would cover a wide spectrum of policy areas. He doubted whether the appointment of a subcommittee could achieve its intended objective to prevent the recurrence of similar incidents. He opined that as the proposed subcommittee, if formed, would be placed on the waiting list, a more practical approach would be for the relevant committees to follow up the issues within their respective purview.

68. The Chairman said that the proposed subcommittee, if formed, would be at the second place on the waiting list, and could activate only after two of the subcommittees on policy issues in operation had completed their work. Given that relevant issues such as hawker stall management, building safety, fire safety, rehousing of fire victims and sub-division of flats fell within the policy areas of various committees, the committees concerned could continue to follow up the issues within their respective purview and hold joint meetings where necessary.

69. Mr LEE Cheuk-yan said that as the subject matter straddled the policy areas of various Panels, he considered it more appropriate to set up a subcommittee under the House Committee to provide a platform for focused discussion of the relevant issues. Given the importance and urgency of the matter, he appealed to Members to support the proposal and the immediate activation of the proposed subcommittee.

70. Mr Paul TSE said that given the wide scope of issues to be studied by the proposed subcommittee, it would be difficult for it to resolve all the issues within a short period of time. Should the Members raising the proposal wish to resolve certain issues expeditiously, the proposed subcommittee should focus only on those issues instead of covering a wide range of issues.

Action

71. As there were divided views among Members, the Chairman put to vote the proposal for setting up a subcommittee under the House Committee to study issues concerning prevention of the recurrence of the fire tragedy in Fa Yuen Street. The results were: 14 Members voted for and 20 Members voted against the proposal and three Members abstained. The Chairman declared that the proposal was not supported.

72. Mr James TO expressed support for inviting CS to attend a special meeting of the House Committee to discuss the Administration's follow-up work regarding the fire tragedy in Fa Yuen Street. The Chairman said that she would convey the request to CS.

IX. Proposal from Hon Starry LEE for moving a motion for adjournment under Rule 16(4) of the Rules of Procedure at the Council meeting of 21 December 2011 for the purpose of debating the following issue: the impact of the announcement made by CLP Power Hong Kong Limited and the Hongkong Electric Company Limited to substantially increase tariffs from 1 January next year on the general public and enterprises, as well as the Government's corresponding measures

(Letter dated 14 December 2011 from Hon Starry LEE to the Chairman of the House Committee (LC Paper No. CB(2) 615/11-12(01)))

73. The Chairman said that Ms Starry LEE had proposed to move a motion for adjournment under Rule 16(4) of the Rules of Procedure ("RoP") at the Council meeting of 21 December 2011 for the purpose of enabling Members to speak on the impact of tariff increase of the two power companies. According to RoP 16(6) and (7) and HR 18(b), the duration of an adjournment debate under RoP 16(4) was one and a half hours unless extended by the President. Each Member, including the proposer, might speak for up to five minutes in the debate. The President could exercise discretion to extend the duration of the debate beyond one and a half hours so that all Members wishing to speak could do so. The proposed adjournment debate, if supported by Members, would be held at the conclusion of all the business on the Agenda of the Council meeting.

74. Mr Paul TSE said that while he did not object to the proposal, he was concerned about the increasing number of requests from Members for holding adjournment debates and raising urgent oral questions on topical and controversial issues. He queried whether this was in line with the established practice, and considered it necessary to discuss seriously such a trend.

Action

75. Mr Jeffrey LAM, Chairman of the Panel on Economic Development ("the EDEV Panel"), said that the Panel had written after its meeting on 13 December 2011 to the Administration and the two power companies requesting them to provide supplementary information concerning the tariff reviews. Upon receipt of the requisite information, the EDEV Panel would hold a special meeting as soon as practicable to further discuss the matter. As the EDEV Panel would convene a meeting shortly, Members might wish to consider the need for holding an adjournment debate on the matter.

76. The Chairman drew Members' attention to a letter from the Hongkong Electric Company Limited dated 16 December 2011 to the Chairman of the EDEV Panel, which was received at around 12:00 noon and tabled at the meeting. The letter had provided updated information for Members' consideration.

77. Dr Priscilla LEUNG said that, she had requested to raise an urgent oral question on the fire in Fa Yuen Street in December last year. However, her request was not approved by the President. Given the severity of and the heavy casualties caused by the tragic fire in Fa Yuen Street on 30 November 2011, five Members had raised proposals for asking urgent oral questions on the matter at the Council meeting of 7 December 2011 and their requests were approved by the President. In considering requests for asking urgent oral questions, she considered it important to adhere to principles and ensure fairness. She shared the view that Members should discuss the criteria for considering such requests and the restrictions, if any, on the number of urgent oral questions raised at a Council meeting.

78. The Chairman pointed out that as the tariff increase would take effect on 1 January 2012, the Council meeting of 21 December 2011 was the only one for raising urgent oral questions or holding motion debate on the subject before the new tariffs took effect.

79. Mr Albert HO stressed that it was incumbent upon LegCo to respond to matters of wide public concern. He pointed out that in some overseas parliaments, there was Prime Minister's Question Time during which urgent questions could be asked without notice. He added that the mechanism for raising urgent oral questions should not be abused.

80. Members supported Ms Starry LEE's proposal for moving a motion for adjournment under RoP 16(4) for the purpose of enabling Members to speak on the tariff increase of the two power companies at the Council meeting of 21 December 2011. Members also agreed that the President's approval be sought for extending the duration of the adjournment debate to enable all Members wishing to speak to do so.

X. Proposals for asking urgent oral questions under Rule 24(4) of the Rules of Procedure at the Council meeting of 21 December 2011 relating to the increase of tariffs by CLP Power Hong Kong Limited and the Hongkong Electric Company Limited

(a) Hon Starry LEE's proposed oral question

(Letter dated 15 December 2011 from Hon Starry LEE to the Chairman of the House Committee (LC Paper No. CB(2) 615/11-12(02)))

(b) Hon Fred LI's proposed oral question

(Letter dated 15 December 2011 from Hon Fred LI to the Chairman of the House Committee (LC Paper No. CB(2) 615/11-12(03)))

(c) Hon Ronny TONG's proposed oral question

(Letter dated 15 December 2011 from Hon Ronny TONG to the Chairman of the House Committee (LC Paper No. CB(2) 625/11-12(01)))

(d) Hon Miriam LAU's proposed oral question

(Letter dated 16 December 2011 from Hon Miriam LAU (LC Paper No. CB(2) 626/11-12(01)))

81. The Chairman said that four Members had raised proposals respectively for asking urgent oral questions under RoP 24(4) at the Council meeting of 21 December 2011 relating to the increase of tariffs by the two power companies. She sought Members' view on the proposals.

82. Mr Paul TSE reiterated his concern about abuse of the existing mechanism for asking urgent questions in the Council. He said that the Prime Minister's Question Time of the House of Commons of the United Kingdom Parliament was very different from LegCo's mechanism for raising urgent oral questions.

83. The Chairman said that Mr Paul TSE could propose an agenda item on his concern for discussion at a House Committee meeting.

84. Mr Paul TSE noted the Chairman's advice. He indicated objection to the proposals from the four Members for raising urgent oral questions.

Action

85. As no other Member had indicated objection, the Chairman declared that the House Committee supported the proposals from the four Members for asking urgent oral questions at the Council meeting of 21 December 2011 relating to the increase of tariffs by the two power companies.

86. Members also agreed that a recommendation be made to the President to adopt the same arrangements as those for the urgent oral questions raised at the Council meeting of 7 December 2011 concerning the fire in Fa Yuen Street, i.e. each of the four Members to ask their respective questions and the public officers to respond after each question first before Members asking supplementary questions on the four questions in one go.

XI. Any other business

87. There being no other business, the meeting ended at 3:42 pm.

Council Business Division 2
Legislative Council Secretariat
5 January 2012