

立法會
Legislative Council

LC Paper No. CB(2) 2505/11-12

Ref : CB2/H/5/11

House Committee of the Legislative Council

**Minutes of the 29th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 29 June 2012**

Members present:

Hon Miriam LAU Kin-yee, 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
Dr Hon David LI Kwok-po, GBM, GBS, JP
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 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 Vincent FANG Kang, SBS, 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 CHEUNG Hok-ming, 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 Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, 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 Tanya CHAN
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Members absent:

Hon Timothy FOK Tsun-ting, GBS, JP
Hon WONG Sing-chi
Hon LEUNG Kwok-hung

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
Mr Andy LAU	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 Kelvin LEE	Acting Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Mr Stephen LAM	Acting Senior Assistant Legal Adviser 4
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Betty MA	Chief Council Secretary (2)4
Ms Amy YU	Chief Council Secretary (2)6
Mr Bonny LOO	Assistant Legal Adviser 3
Ms Wendy KAN	Assistant Legal Adviser 6
Mr YICK Wing-kin	Assistant Legal Adviser 8
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 the minutes of the 28th meeting held on 22 June 2012
(LC Paper No. CB(2) 2453/11-12)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that she had relayed to CS Members' views on according priority to bills relating to people's livelihood and changing the order for resumption of the Second Reading debates on the Companies Bill and the Residential Properties (First-hand Sales) Bill. CS had agreed to Members' suggestion of swapping the order of the two Bills. The legislative process of the Residential Properties (First-hand Sales) Bill was completed at this morning's Council meeting.

(b) Planning of Council business to be dealt with at Council meetings before 18 July 2012
(LC Paper No. CB(2) 2456/11-12)

3. The Chairman said that the Secretariat had prepared an updated

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plan on Council business to be dealt with at Council meetings before 18 July 2012, in the light of the latest progress of the Council meeting commencing on 27 June 2012.

4. At the invitation of the Chairman, Secretary General ("SG") said that the updated plan tabled at the meeting reflected the progress of the Council meeting up to 1:00 pm of the day of the House Committee ("HC") meeting. As the legislative process of the Residential Properties (First-hand Sales) Bill had just been completed, the resumption of Second Reading debates on the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2012 and the Companies Bills could start when the Council meeting was to be resumed on Tuesday, 3 July 2012 at 9:00 am. The President would adjourn the Council meeting at about 10:00 pm on that day to allow time for the Secretariat to prepare the finalized Agenda for the Council meeting of 4 July 2012.

5. SG further said that based on the Secretariat's consultation with Members on the arrangements for the Council meeting of 4 July 2012, the President had decided that the Council meeting be suspended at about 12:00 midnight on 4 and 5 July. As some Members had expressed the view that the Council meeting be suspended at about 11:30 pm instead of 12:00 midnight so that they could return home by MTR, the President might exercise his discretion to suspend the meeting earlier, say by 15 minutes to half an hour, on these two days. Although over half of the Members had indicated that they would not object to the continuation of the Council meeting on Saturday, 7 July, the number of Members who had confirmed their availability for the meeting was just sufficient to form a quorum. To avoid the possibility of adjournment of the meeting due to the absence of a quorum, the President had decided that no Council meeting be held on 7 and 8 July 2012. On Monday, 9 July, the Council meeting was scheduled to be resumed at 9:00 am and suspended at about 10:00 pm. As for Tuesday, 10 July, the Council meeting would be held in the afternoon from 2:30 pm to about 10:00 pm. Based on the Secretariat's estimation, the proceedings on all the Government bills for which notice had been given for the resumption of their Second Reading debates at or before the Council meeting of 4 July 2012 could be completed at that Council meeting.

6. SG added that even assuming that the Council meeting of 11 July 2012 would continue every day until its prorogation on 18 July, the Secretariat estimated a shortfall of 63.75 hours for transacting all the outstanding items of Council business. There was a high chance that some of the items could not be dealt with before the Council's prorogation.

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7. Ms Emily LAU said that Members belonging to the Democratic Party ("DP") hoped that the Council could complete the proceedings on all the bills and motions with legislative effect before it was to stand prorogued, and that the Administration would withdraw its proposals relating to the re-organization of the Government Secretariat from the Agendas of the Council and the Finance Committee ("FC"). Mr Albert HO had written to the Administration on 27 June 2012 requesting that the relevant items be withdrawn from the agenda for the FC meeting on 29 June 2012 so that FC could first deal with other agenda items relating to the livelihood of the public. So far, the Administration had not responded to Mr HO's letter. Having regard to the unfinished business on the agenda for the FC meeting, the Administration had requested that additional FC meetings be scheduled on 6 and 13 July, with at least two meetings on each day. Most members had indicated that they did not object to the Administration's request. She hoped that the President would take into account the meeting schedule of FC in considering the arrangements of the relevant Council meetings.

8. Dr Margaret NG said that a Permanent Judge of the Court of Final Appeal would reach his normal retiring age of 65 years on 25 October 2012. She cautioned about the serious consequence should the proposed resolution relating to senior judicial appointments not be dealt with before the Council's prorogation owing to the scheduling of additional FC meetings.

9. The Chairman said that the proposed resolution relating to senior judicial appointments was the first among the Government motions on the Agenda of the Council. It would be dealt with after the conclusion of the proceedings on all Government bills. There was a good chance that it could be transacted before the Council's prorogation on 18 July 2012.

10. Mr IP Kwok-him said that it was the stance of Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") that Members should make their best endeavour to complete the legislative process of all Government bills and motions within the current Legislative Council ("LegCo") term, as it was in the public interest to do so. They did not mind the Council meetings continuing overnight, if necessary.

11. Mr Albert CHAN said that while the Administration had the right to propose the order of Government motions on the Agenda of the Council, the recent attempt of the Administration to jump the queue by according priority to the proposed resolution relating to the re-organization of the Government Secretariat was, in his view, unethical,

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irrational and improper. He had repeatedly said that Members were not servants of the Chief Executive-elect ("CE-elect"). He queried whether the Administration's decision not to resume the Second Reading debate on the Copyright (Amendment) Bill 2011 within the current LegCo term was for the purpose of facilitating the Council's processing of the proposed resolution relating to the re-organization proposals. He criticized the Administration for pressing hard for the passage of the re-organization proposals at the expense of Government motions relating to people's livelihood. He stressed that the proposed resolution relating to the re-organization proposals should not be allowed to jump the queue.

12. Mrs Sophie LEUNG shared the view on the importance of dealing with the proposed resolution relating to senior judicial appointments before LegCo was to stand prorogued on 18 July 2012. Noting from the updated plan prepared by the Secretariat the estimated shortfall of 63.75 hours for dealing with all Council business at the Council meeting of 11 July 2012, she said that some individual Members' motions without legislative effect scheduled for that Council meeting were worth debating and some Members were of the view that the valedictory motion should be held. If overnight Council meetings be considered necessary, she would prefer that some meeting days of the Council meeting of 4 July 2012 to continue overnight so that more items could be dealt with at that Council meeting, instead of bunching the Agenda for the last Council meeting of 11 July 2012.

13. Mr KAM Nai-wai said that the present arrangement of holding the Council meetings from early morning until late at night continuously for several days had already made Members very exhausted. He pointed out that Members could unlikely cope physically with attending Council meetings overnight for successive days. He did not support the proposal for continuing the Council meeting of 4 July 2012 overnight. In his view, the overnight arrangement should only be adopted where it was absolutely necessary. He did not consider it reasonable for the Council meetings to continue overnight on the one hand, but no Council meeting was scheduled for Saturday, 7 July and Sunday, 8 July on the other.

14. Ms Emily LAU said that Members should work out arrangements for completing the proceedings on all bills and motions with legislative before the Council was to stand prorogued. As the valedictory motion could unlikely be moved at the last Council meeting, she suggested that arrangements be made for Members, particularly those who had decided not to seek re-election, to say a few words of valediction at the farewell dinner. She sought information on the arrangements for the farewell

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dinner.

15. At the invitation of the Chairman, SG said that should the farewell dinner not be held on 17 July 2012, the Secretariat's preliminary plan was to re-schedule it to 18 July 2012. However, it should be noted that the nomination period of the 2012 LegCo Election would start on 18 July 2012 and Members might need to bear in mind some points if the farewell dinner was to be held on that day.

16. In response to Ms Emily LAU, Legal Adviser said that 18 July 2012 was the date from which the Fourth LegCo was to stand prorogued. As the purpose of the prorogation arrangement was to ensure that incumbent LegCo Members would not have an unfair advantage over other candidates in the 2012 LegCo Election, Members might wish to consider whether media coverage on the farewell dinner would have such an effect should it be held on 18 July 2012.

17. Mr LEE Cheuk-yan said that Members belonging to the Labour Party hoped that the Council could complete the legislative work of all bills and motions with legislative effect, including the proposed resolutions relating to occupational compensation. As it was evident that the crux of the problem lay in the re-organization proposals, he considered that the Administration's withdrawal of the relevant proposed resolution was the simplest solution to clearing the backlog on the Agenda of the Council. Given the lack of public consultation on the re-organization proposals, it was his view that the Administration should carry out public consultation during the summer of 2012. He hoped that the Chairman could relay these views to the Administration.

18. The Chairman said that she could relay such view to CS only if it was the consensual view of Members.

19. Mr LEE Cheuk-yan suggested that his proposal for requesting the Administration to withdraw the proposed resolution relating to the re-organization of the Government Secretariat be put to vote.

20. The Chairman said that Mr LEE Cheuk-yan's proposal would be dealt with after Members had expressed their views.

21. Mr WONG Yuk-man shared the views of Mr LEE Cheuk-yan that the simplest solution was the withdrawal by the Administration of the proposed resolution on the re-organization proposals. Otherwise, he, Mr Albert CHAN and Mr LEUNG Kwok-hung would continue to filibuster to obstruct the passage of the proposed resolution by LegCo. He further said that he was well prepared for working overnight and

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attending additional meetings. He supported putting Mr LEE Cheuk-yan's proposal to vote.

22. Dr PAN Pey-chyou said that the proposed resolution under the Pharmacy and Poisons Ordinance was for seeking LegCo's approval for the addition of 11 substances/medicines to the relevant regulations, so that these substances/medicines could be sold subject to certain conditions. There was concern in the medical sector about the delay in the processing of the proposed resolution, as some of the medicines were life-saving drugs for diseases such as cancer. He sought advice on the consequence if the legislative process of the proposed resolution could not be completed before the Council's prorogation, and suggested that consideration be given to advancing the transaction of the proposed resolution as it would not take a long time to complete.

23. The Chairman said that if the proposed resolution could not be dealt with within the current term of LegCo, the Administration would need to propose the resolution again in the Fifth LegCo. She further said that according to the plan on Council business prepared by the Secretariat, the proposed resolution under the Pharmacy and Poisons Ordinance was at the fifth place among the category of Government motions to be dealt with at the Council meeting of 11 July 2012. Whether or not the proposed resolution could be dealt with before the Council's prorogation would depend on the progress of the Council meetings.

24. Mr WONG Kwok-kin said that he did not subscribe to the view that the proposed resolution relating to the re-organization of the Government Secretariat was the cause for the huge backlog of Council business. In his view, it was the deliberate act of some Members to prolong the proceedings of the Council business that had led to the present problem. He added that it was the stance of Members belonging to the Hong Kong Federation of Trade Unions that the current order of business on the Agenda of the Council should be followed in transacting business.

25. Mr IP Kwok-him said that Members belonging to DAB strongly objected to the proposal that the Administration should withdraw the proposed resolution relating to the re-organization of the Government Secretariat. He stressed that Members could vote against the proposed resolution at the Council meeting.

26. Dr Philip WONG criticized some Members for asking repetitive questions at FC meetings for the purpose of delaying the voting on the financial proposals relating to the re-organization proposals. In his

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view, the Chairman of FC should put the proposals to vote instead of permitting some Members to continue asking repetitive questions. Members who objected to the re-organization proposals had the right to vote against them. He stressed that a small number of Members should not be allowed to "hijack the Council" through filibustering.

27. Mrs Sophie LEUNG said that it was incumbent upon Members to make their best efforts to complete the legislative process of all Government bills and motions before the prorogation of the Council. Pointing out that Members had spent a lot of time to scrutinize the re-organization proposals, she considered it irresponsible for some Members to request the withdrawal of the proposals in which case the scrutiny work would have to start again in the Fifth LegCo.

28. Referring to the paper which the Administration had just provided to FC on the effective date of the proposed changes to the financial proposals relating to the re-organization of the Government Secretariat and the commencement date of the transfer of statutory powers under the relevant proposed resolution (LC Paper No. FC155/11-12(01)), Dr Margaret NG noted that the Administration was still equivocal as to whether it would propose another amendment to the proposed resolution concerning its effective date even when it was clear that the proposed resolution could not take effect on 1 July 2012. She was worried whether it was the Administration's plan to obtain the approval by FC of the relevant financial proposals at the upcoming FC meetings to be held immediately after the HC meeting and then resort again to moving a motion to change the order of business on the Agenda for the Council meeting of 4 July 2012 to give priority to deal with the proposed resolution relating to the re-organization proposals ahead of the Government bills.

29. The Chairman said that the Administration had moved a motion to suspend Rule 18 of the Rules of Procedure ("RoP") at the Council meeting of 20 June 2012 to the effect that the Council could deal with the proposed resolution relating to the re-organization of the Government Secretariat ahead of the Government bills, but the motion had been voted down.

30. Dr Margaret NG reiterated that she was very worried that the Administration would move a motion again to suspend RoP 18 at the Council meeting of 4 July 2012. She criticized the Administration's refusal to provide a definite answer on the effective date of the proposed resolution.

31. Dr PAN Pey-chyau said that he had just checked with the Food and Health Bureau and was given to understand that if the proposed

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resolution relating to the Pharmacy and Poisons Ordinance could not be passed within the current term of LegCo, the 11 substances/medicines concerned could not be sold in registered premises even with the prescription given by a medical practitioner and could not be used by patients. He stressed that the medicines were for patients suffering from cancer, disseminated lupus erythematosus and mental illness. He appealed to Members concerned to attach importance to patients' needs and not to affect the implementation of the proposed resolution by filibustering.

32. Ms LI Fung-ying said that the Administration should have a good grasp of Members' views on the proposed resolution relating to the re-organization of the Government Secretariat, as the matter had been discussed by HC at a number of meetings. It would be for the Administration to decide whether to withdraw the proposed resolution. Irrespective of the Administration's decision, Members had the responsibility to make their best efforts to complete the outstanding Council business before the Council's prorogation.

33. The Chairman said that as there was no consensual view among Members on the proposal for requesting the Administration to withdraw the reorganization proposals, she would not take the matter up with CS.

III. Further business for the Council meeting of 4 July 2012

(a) Tabling of papers

Report No. 24/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 2455/11-12 issued vide LC Paper No. CB(3) 979/11-12 dated 27 June 2012)

34. The Chairman said that the Report covered one item of subsidiary legislation, the period for amendment of which would expire on 4 July 2012. No Member had indicated intention to speak on the subsidiary legislation.

35. Members noted the Report.

(b) Members' motions

Proposed resolution to be moved by Hon James TO under Article 159 of the Basic Law of the Hong Kong Special

Administrative Region of the People's Republic of China
(*Wording of the proposed resolution issued vide LC Paper No. CB(3) 976/11-12 dated 25 June 2012.*)

36. The Chairman said that the proposed resolution sought to amend Article 24(2)(1) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China concerning eligibility for permanent residence in the Hong Kong Special Administrative Region. The passage of the proposed resolution would require a two-thirds majority vote of all the Members.

IV. Business for the Council meeting of 11 July 2012

(a) **Questions**

(*LC Paper No. CB(3) 978/11-12*)

37. 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**

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

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

Inland Revenue (Amendment) Bill 2012

39. The Chairman said that the Bills Committee on the above Bill had reported to HC at the last meeting. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) **Government motions**

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

(e) **Members' motions**

(i) **Proposed resolution to be moved by Hon Mrs Sophie LEUNG under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

(*Wording of the proposed resolution issued vide LC Paper No. CB(3) 996/11-12 dated 28 June 2012.*)

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41. The Chairman said that at the last HC meeting, Members agreed that Mrs Sophie LEUNG, Chairman of the Committee on Members' Interests, would move a motion at the Council meeting of 11 July 2012 to amend the registration requirements under RoP 83 (Registration of Interests).

(ii) **Proposed resolution to be moved by Hon LEE Wing-tat under the Legislative Council (Powers and Privileges) Ordinance**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 977/11-12 dated 25 June 2012.)

42. The Chairman said that the proposed resolution was for seeking LegCo's authorization to empower the Panel on Development ("Dev Panel") to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance ("P&P Ordinance") to order the Secretary for Development to produce information in relation to the land exchange arrangement involving the Ocean Terminal Lot.

(iii) **Motion on "Report of the Select Committee to Study Mr LEUNG Chun-ying's Involvement as a Member of the Jury in the West Kowloon Reclamation Concept Plan Competition and Related Issues"**

(Wording of the motion issued vide LC Paper No. CB(3) 940/11-12 dated 19 June 2012.)

43. The Chairman said that the above motion on the report of the Select Committee to Study Mr LEUNG Chun-ying's Involvement as a Member of the Jury in the West Kowloon Reclamation Concept Plan Competition and Related Issues would be moved by Mr IP Kwok-him, Chairman of the Select Committee, at the Council meeting of 11 July 2012, and the wording of the motion had been issued to Members.

(iv) **Valedictory Motion**

(Wording of the motion issued vide LC Paper No. CB(3) 962/11-12 dated 19 June 2012.)

44. The Chairman said that given the heavy Agenda of the Council, there was little chance that the valedictory motion could be moved at the last Council meeting.

45. In response to Ms Emily LAU, the Chairman said that she would discuss with the Secretariat the valedictory arrangements and revert to Members at the next HC meeting.

46. Responding to Mr LEE Wing-tat, the Chairman said that according to the order of Council business, Government bills and motions would be transacted first, followed by Members' motions with legislative effect and then Members' motions with no legislative effect.

Report on study of subsidiary legislation

47. The Chairman invited Members to note the list containing one item of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 11 July 2012. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 3 July 2012.

V. Report of Bills Committees and subcommittees

(a) Report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions

(LC Paper No. CB(1) 2244/11-12)

48. Dr Margaret NG, Chairman of the Subcommittee, said that the Subcommittee was formed in December 2008 to examine regulations to be made under the United Nations Sanctions Ordinance (Cap. 537) ("UNSO") to implement in Hong Kong the resolutions of the United Nations Security Council ("UNSC") in relation to sanctions ("the Regulations"). The Subcommittee submitted its first report to HC on 25 June 2010. Since then, the Subcommittee had studied 16 Regulations made and gazetted. She referred Members to the Subcommittee's report for details of its deliberations.

49. Dr Margaret NG further said that the Regulations were not required to be laid before LegCo and were not subject to approval or amendment by LegCo. Nevertheless, given that the Regulations would be submitted by the Government to LegCo from time to time, the Subcommittee considered it necessary to set up a subcommittee under HC in the Fifth LegCo to deal with these Regulations, especially those relating to new sanction measures not commonly found in resolutions made by UNSC in the past, and to examine how the relevant sanctions should be implemented in Hong Kong. The Subcommittee also recommended that the Administration should reconsider using the model law approach when preparing future Regulations and continue to follow up the recommendations made by the Subcommittee in respect of the drafting and textual aspects of the Regulations.

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50. Members agreed in principle to the Subcommittee's recommendation that a subcommittee should be set up under HC in the Fifth LegCo to deal with the Regulations.

51. The Chairman said that whether such a subcommittee should be formed rested with HC of the Fifth LegCo.

(b) Report of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families

(LC Paper No. CB(2) 2457/11-12)

52. Mr LEE Cheuk-yan, Chairman of the Subcommittee, reported that the Subcommittee had completed its work. The Subcommittee had held 23 meetings and had received views from deputations at a number of meetings.

53. Mr LEE Cheuk-yan highlighted the major areas of study of the Subcommittee. They included population policy having impact on Mainland-HKSAR families; use of subsidized obstetric services by Mainland women whose spouses were Hong Kong residents; administrative arrangements for temporary stay in Hong Kong of Hong Kong residents' family members living in the Mainland; the procedures and waiting time for processing applications for One Way Permits ("OWPs"); new application arrangements for OWP applications by "overage children"; cross-boundary students; and support services for new arrivals from the Mainland. Mr LEE added that the Subcommittee members regretted at CS's refusal to accept its invitations to attend its meetings. He referred Members to the Subcommittee's report for details of its study and recommendations.

(c) Report of the Subcommittee on Banking Ordinance (Amendment of Seventh Schedule) Notice 2012

(LC Paper No. CB(1) 2260/11-12)

54. Mr James TO, Chairman of the Subcommittee, said that the Notice amended the minimum criteria for authorization under paragraph 13 of the Seventh Schedule to the Banking Ordinance (Cap. 155) ("BO") so as to remove the requirement to have total customer deposits of not less than \$3 billion and total assets of not less than \$4 billion ("the size criteria") and the three-year requirement for a company seeking authorization to carry out banking business in Hong Kong.

55. Mr James TO further said that the Subcommittee had held one meeting with the Administration. The Subcommittee was concerned

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that the removal of the size criteria would make it easier for overseas institutions with no history of taking deposits to obtain authorization to conduct deposit-taking business in Hong Kong, exposing local depositors and those from the Mainland to greater risks. Members therefore asked the Hong Kong Monetary Authority ("HKMA") to consider whether it could impose conditions on authorization in such cases to restrict overseas institutions with no experience of taking deposits overseas from doing so in Hong Kong.

56. Mr James TO said that to address members' concerns, HKMA proposed to amend its Guideline on Minimum Criteria for Authorization ("the Guideline") issued under section 16(10) of BO to the effect that where an overseas applicant proposed to undertake deposit-taking business in Hong Kong, but was unable to demonstrate that it had sufficient experience of operating such business in its home jurisdiction, HKMA would require the applicant to explain in detail its business case for the proposed deposit-taking business. HKMA might also impose conditions limiting the scope of or the way in which the applicant might conduct its deposit-taking business in Hong Kong. According to the Administration, the amended Guideline would be published in the Gazette. Mr TO referred Members to the Subcommittee's report for details of its deliberations.

57. Mr James TO added that as the motion to extend the period for amending the Notice had not been dealt with at the Council meeting of 20 June 2012, the 28-day period for amending the Notice had expired. As such, it was not possible for the Subcommittee or any Member to amend or repeal the Notice which would come into operation without amendment on 12 July 2012. He did not consider this desirable as the Subcommittee did not have time to further discuss the proposed amendments to the Guideline and Members did not have the opportunity to express their views on the Notice at a Council meeting. He reiterated members' concern about the impact of removing the size criteria on local and overseas depositors, particularly in the midst of the prevailing European debt crisis.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2454/11-12)

58. The Chairman said that there were two subcommittees under HC (i.e. one subcommittee on subsidiary legislation and one subcommittee on other Council business) and six subcommittees under Panels in action.

VII. Proposals for discussing ways to follow up on issues relating to the unauthorized building works at the Chief Executive-elect's house

(a) Letter from Hon Alan LEONG

(Letter dated 22 June 2012 from Hon Alan LEONG to the Chairman of the House Committee (LC Paper No. CB(2) 2450/11-12(01)))

(b) Letter from Hon Albert HO

(Letter dated 25 June 2012 from Hon Albert HO to the Chairman of the House Committee (LC Paper No. CB(2) 2464/11-12(01)))

(c) Letter from Hon LEE Wing-tat

(Letter dated 26 June 2012 from Hon LEE Wing-tat to the Chairman of the House Committee (LC Paper No. CB(2) 2464/11-12(02)))

59. The Chairman said that Mr Alan LEONG, Mr Albert HO and Mr LEE Wing-tat had written to her proposing to discuss ways to follow up on issues relating to the unauthorized building works ("UBWs") at the CE-elect's residence. She invited the three Members to briefly explain their proposals.

60. Mr Alan LEONG said that the UBWs found at CE-elect's residence on the Peak had aroused great controversy and wide public concern recently. In his view, the crux of the matter lay in whether the CE-elect was deliberately trying to hide the truth or whether he had only been negligent. Should the former be the case, his integrity would be called into question. He stressed that Members had the responsibility to find out the truth for the public. Given the time constraint and the heavy Agenda of the Council, Members belonging to the Civic Party considered the holding of a special CE's Question and Answer ("Q&A") Session lasting one and a half hours the most practical follow-up action on the matters by Members before the Council's prorogation on 18 July 2012. Mr LEONG recalled that following public concern on incumbent CE's trips on private jets and yachts and renting of a residential unit in Shenzhen, a special Q&A Session was convened within a very short time following HC's agreement.

61. Mr Albert HO said that he raised the same request as Mr Alan LEONG on behalf of Members belonging to DP. Noting CE-elect's swift response to allegations on his unlawful occupation of swimming pool, Mr HO said that the CE-elect might wish to come to LegCo to clarify issues relating to the UBWs at his house. The proposed Q&A Session would provide a platform for Members to put questions to CE

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and the latter to give a full account of the matter to allay public worries about his integrity.

62. Mr LEE Wing-tat said that his proposals were to seek the Council's authorization to empower the Dev Panel to exercise the powers under the P&P Ordinance to obtain information relating to the UBWs at the CE-elect's residence. His first proposal was to order the CE-elect to produce information on the opinion provided by the professional persons appointed by him to inspect the house when he purchased it in 1999 in relation to whether there were UBWs and when he told reporters in May 2011 that he had consulted professional persons who confirmed that the premises had no UBWs. His second proposal was to order the Secretary for Development to produce information gathered by the Buildings Department on the premises and its investigation on the UBWs therein. Although the Dev Panel had discussed the matter at its meeting on 28 June 2012, it lasted only about 30 to 40 minutes which were hardly sufficient for members to probe into the matter. Given that the CE-elect was not co-operative in disclosing the information despite repeated enquiries from the media, he had no choice but to resort to invoking the powers under the P&P Ordinance.

63. The Chairman invited Members' views on the proposals.

64. Mr IP Kwok-him said that Members belonging to DAB considered it appropriate for the new CE to come to LegCo to attend a Q&A Session to enhance the communication between the Executive Authorities and the Legislature. The proposed Q&A Session should, however, be held after LegCo had completed the proceedings on all Government bills and motions in order not to affect the legislative work. As regards Mr LEE Wing-tat's proposal for invoking the powers under the P&P Ordinance, Mr IP said that it had all along been the stance of DAB that the powers under the P&P Ordinance should be exercised prudently, and Members belonging to DAB did not support the invocation of the powers under the P&P Ordinance at the present stage.

65. Mr Paul TSE said that the UBWs found at the CE-elect's residence and widely reported by the media warranted concern. However, he considered it important to distinguish between whether the act was committed by Mr LEUNG Chun-ying in his capacity as a public officer or as a CE candidate. Should it be the latter, the matter should be pursued through the filing of an election petition. The invocation of powers under the P&P Ordinance to inquire into the matter under such circumstances would be a misuse of public power and a violation of procedural justice. Mr TSE further said that he did not see any urgency in handling the matter. Given the huge backlog of business on the

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Agenda of the Council, he had reservations about holding a Q&A Session amidst the tight work schedule of the Council. In his view, the proposal for holding a Q&A Session was another form of jumping the queue, which he opposed. A Q&A Session lasting for only one and a half hours did not provide sufficient time for Members to raise questions and was not an effective mechanism for finding out the truth. He did not support the proposal for invoking the powers under the P&P Ordinance, as Members would not have the time to take the matter any further even if they were able to obtain the requisite information.

66. Mr Albert HO said that he planned to lodge an election petition against Mr LEUNG Chun-ying and hence, he would not put questions to CE at the proposed Q&A Session. In his view, Members were duty bound to ask questions and CE to clarify the matter to the public. The Q&A Session would provide a good opportunity for CE to explain what had actually happened and address public concern about his credibility. As regards the timing for holding the Q&A Session, he suggested that consideration be given to holding it before the Council meetings on Wednesdays.

67. Mr Ronny TONG said that when the CE's integrity was called into question, LegCo was duty bound to provide an opportunity for CE to clarify the allegations to the public. He considered that the filing of an election petition and the holding of a Q&A Session were separate matters. Although there was time constraint, the integrity of CE was a matter of utmost importance which should be followed up by LegCo.

68. Mr Fred LI said that a number of committees had scheduled meetings in the morning of 4 and 11 July 2012 before the Council meetings and hence, it would not be viable for holding the proposed Q&A Session at those time slots. As Q&A Sessions were usually held on Thursday from 3:00 pm to 4:30 pm, he suggested that the proposed Q&A Session be held on Thursday, 5 July 2012. In his view, it was appropriate and reasonable for the new CE to attend a Q&A Session upon his assumption of office to answer Members' questions, which should not be restricted to the UBWs at his residence. It was for individual Members who had the chance to raise questions to decide on the topic which they liked to cover.

69. Mr James TO said that as Chairman of the Panel on Security, he had requested the Panel Clerk to invite the Secretary for Security ("S for S") of the next term Government to attend the Panel meeting in July 2012 to brief Members on his work plan. The new S for S had accepted the Panel's invitation. In his view, the new CE might also be eagerly looking forward to having an opportunity to come to LegCo to explain

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his governance philosophy and LegCo should arrange a Q&A Session for the purpose.

70. Mr LEE Wing-tat shared the view that it was natural and appropriate for the new CE to attend a Q&A Session upon his assumption of office to explain to Members his governance philosophy. According to his recollection, the incumbent CE had also come to LegCo to attend a Q&A Session in about two weeks' time after he had assumed office. Noting that the CE-elect would visit all 18 Districts after assumption of office to explain his governance philosophy, Mr LEE surmised that the CE-elect would welcome an opportunity to do the same in LegCo. He stressed that constitutionally the Executive Authorities were accountable to the Legislature and he could not see any reason why some Members could object to CE attending a Q&A Session to answer Members' questions.

71. Mr CHEUNG Man-kwong said that in the face of fierce criticism and serious doubts about his integrity, the incumbent CE had come to LegCo twice within the last few months to respond to Members' questions. In his view, the new CE should do the same and come to LegCo to face Members and answer their questions on the UBWs at his residence, his governance philosophy or other matters of Members' concern. He considered it an appropriate arrangement for the new CE to attend a Q&A Session before the Council's prorogation on 18 July 2012.

72. Mr TAM Yiu-chung said that he believed that the new CE would follow the established practice of attending Q&A Sessions to answer Members' questions. He clarified that Members belonging to DAB did not object to inviting the CE-elect to attend a Q&A Session. They were only concerned about the huge backlog of Council business and hoped that arrangements could be made in such a way as to minimize the impact of the Q&A Session on the legislative process of the Government bills and motions. He stressed that it was incumbent upon Members of the current term to complete the legislative work on all the Government bills and motions, irrespective of their views thereon, before the prorogation of the Council.

73. Mr Paul TSE said that while it was necessary to follow up on issues relating to the UBWs at the CE-elect's residence and his governance philosophy, Members should consider the appropriate timing for doing so. He did not consider that there was urgency for the current term LegCo to deal with the matters when there was such a large amount of unfinished Council business, including many bills on which Members had scrutinised for many years. He did not see any irreversible consequences in not holding a Q&A Session to discuss the matters at the

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present stage. In his view, there would be ample time and opportunities for LegCo to discuss the matters as a new CE would inevitably come to LegCo to explain his policies. He reiterated his view that the proposal for holding a Q&A Session was another form of jumping the queue, as in the case of the moving of the motion by the Administration to suspend RoP 18. He objected to the proposal for holding the Q&A Session which he considered politically motivated and unethical. He reiterated the need to draw a clear dividing line between acts of candidates during election and acts of public officers during their tenure of office.

74. Mrs Sophie LEUNG expressed concurrence with Mr Paul TSE's views. She suggested that Members should convey to the CE-elect their wish for him to attend a Q&A Session after his assumption of office and before the Council's prorogation on 18 July 2012. The CE-elect might welcome such an opportunity. Members should be free to ask questions on any subject matter during the Q&A Session.

75. Mr Andrew CHENG supported the proposal for inviting the CE-elect to attend a Q&A Session after his assumption of office as early as possible to answer Members' questions. In his view, there was urgency in the matter as the current term LegCo was to stand prorogued on 18 July 2012, and the holding of the Q&A Session would enable Members to raise questions to CE-elect not only on the UBWs at his residence, but also on his re-organization proposals which were currently under scrutiny by the current term LegCo. He stressed that according to the Basic Law, the Executive Authorities were accountable to the Legislature. He did not subscribe to the view that the proposal for inviting the CE-elect to attend a Q&A Session was an attempt to jump the queue as in the case of the moving of the motion by the Administration to suspend RoP 18 at the Council meeting of 20 June 2012. Referring to the setting up of a select committee by LegCo to inquire into matters relating to Mr LEUNG Chun-ying's involvement in the West Kowloon Reclamation Concept Plan Competition which took place some 10 years ago, he did not consider it necessary to draw a dividing line between the acts of a CE-elect or a CE in office in considering the need to follow up on the matter. He found it inconceivable that any Member could object to the proposal for inviting the CE-elect who was accountable to LegCo to attend a Q&A Session.

76. Mr Alan LEONG said that other than Mr Paul TSE, it appeared that Members had a consensual view that the CE-elect should attend a Q&A Session after his assumption of office, the date of which was to be proposed by the CE-elect. He did not agree to Mr Paul TSE's view that the acts of the CE-elect during the election should not be followed up by LegCo, given that the CE-elect would assume office after two days and

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his credibility was of utmost importance. The public wished to find out as early as possible whether the CE-elect was deliberately trying to hide the truth or whether he had only been negligent. The CE-elect might welcome the opportunity to come to LegCo to explain the matter. He appealed to Members to support his proposal.

77. Mr CHIM Pui-chung said that while issues relating to the UBWs at the CE-elect's residence and his credibility could be followed up during the next term of LegCo, the holding of a Q&A Session before the Council's prorogation on 18 July 2012 would provide an opportunity for those Members who would not continue to serve as Members in the Fifth LegCo to put questions on these matters to the CE-elect. He proposed that Members' request for holding a Q&A Session be conveyed to the CE-elect and it would be for him to decide whether to attend.

78. Mr Paul TSE said that the Select Committee on matters relating to the West Kowloon Reclamation Concept Plan Competition involved not only Mr LEUNG Chun-ying's participation as a member of the Jury, but also the Administration's handling of the matter. Given the filibustering by some Members and the serious lack of time in dealing with the Council business, he queried whether it was a wise decision to hold a Q&A Session on issues relating to the UBWs and the CE-elect's governance philosophy before the Council's prorogation.

79. The Chairman said that she gathered from the discussions that Members generally agreed to relay to the CE-elect their wish for him to attend a Q&A Session lasting one and a half hours after he had assumed office and before the Council's prorogation on 18 July 2012. She requested the Secretariat to liaise with the Administration on the arrangements.

80. Regarding the two proposals by Mr LEE Wing-tat for seeking LegCo's authorization to empower the Dev Panel to order the CE-elect and the Secretary for Development respectively to produce information relating to the UBWs at the CE-elect's residence, the Chairman sought Members' view on whether they should be put to vote jointly or separately.

81. Mr LEE Wing-tat suggested that the proposals be put to vote jointly.

82. Mr TAM Yiu-chung said that Mr LEE Wing-tat had also raised a proposal for invoking the powers under the P&P Ordinance at the last HC meeting. He expressed dissatisfaction with Mr LEE Wing-tat for requesting HC to support the moving of the proposed resolutions under

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the P&P Ordinance which could unlikely be dealt with at the Council meeting before prorogation. He did not consider it necessary to put Mr LEE's proposals to vote, adding that Mr LEE could move in his individual capacity the proposed resolutions at the Council meeting.

83. Mr LEE Wing-tat said that the most important consideration was whether the matter concerned involved significant public interest. At the last HC meeting, he raised the proposal for invoking the powers under the P&P Ordinance to order information on the Administration's agreement with a developer on the lease renewal for the Ocean Terminal Lot by way of an in-situ land exchange given the public concern about the matter. In respect of his present proposals, Mr LEE said that the CE-elect claimed that he had hired professionals to confirm that his residence was clear of UBWs when he bought it in 1999. The CE-elect also claimed last year that he had consulted two professionals who had confirmed that his residence had no UBWs. However, the CE-elect had refused to reveal the identities of these persons so far. He stressed that his proposals were to invoke the powers under the P&P Ordinance to order the production of the relevant information, and not to appoint a select committee.

84. Mr IP Kwok-him said that he did not see any point for HC to discuss the proposals as Mr LEE Wing-tat would proceed to move the proposed resolutions at the Council meeting even if HC did not support them. In his view, Mr LEE Wing-tat raised the proposals for discussion at the HC meeting for the purpose of expressing his political views on the matter. While respecting the right of Members to express their political views, he did not consider it appropriate to use HC as the forum to do so.

85. Mr LEE Wing-tat considered it appropriate to raise his proposals at the HC meeting as HC considered matters relating to Council business. He further said that Members who voted against his proposals at the HC meeting might change their stance and support the proposed resolutions when they were moved at the Council meeting. He requested to put his proposals to vote.

86. Mrs Sophie LEUNG considered it impracticable to put forward such proposals, as there was little chance that the proposed resolutions could be moved at the Council meeting before prorogation.

87. Members agreed that Mr LEE Wing-tat's proposals be put to vote jointly.

88. The Chairman put to vote the proposals of Mr LEE Wing-tat for seeking the Council's authorization to exercise the powers under the P&P

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Ordinance to order the CE-elect and the Secretary for Development respectively to attend before the Dev Panel before 18 July 2012 to produce all relevant information relating to the UBWs at the CE-elect's residence. Mr LEE Wing-tat requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Miss Tanya CHAN and Mr Albert CHAN.

(19 Members)

The following Members voted against the proposal:

Ir Dr Raymond HO, Dr David LI, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM.

(27 Members)

The following Member abstained:

Dr LEUNG Ka-lau

(1 Member)

89. The Chairman declared that 19 Members voted for, 27 Members voted against, the proposal and one Member abstained. Mr LEE Wing-tat's proposals were negatived.

90. There being no other business, the meeting ended at 4:28 pm.