

立法會
Legislative Council

LC Paper No. CB(2) 170/12-13

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House Committee of the Legislative Council

**Minutes of the 5th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 2 November 2012**

Members present:

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)

Hon Ronny TONG Ka-wah, SC (Deputy Chairman)

Hon Albert HO Chun-yan

Hon James TO Kun-sun

Hon CHAN Kam-lam, SBS, JP

Hon LEUNG Yiu-chung

Hon Emily LAU Wai-hing, JP

Hon TAM Yiu-chung, GBS, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon Tommy CHEUNG Yu-yan, SBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, MH

Dr Hon Joseph LEE Kok-long, SBS, JP

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan

Hon Starry LEE Wai-king, JP

Dr Hon LAM Tai-fai, SBS, JP

Hon CHAN Hak-kan, JP

Hon CHAN Kin-por, BBS, JP

Dr Hon Priscilla LEUNG Mei-fun, JP

Dr Hon LEUNG Ka-lau

Hon CHEUNG Kwok-che

Hon WONG Kwok-kin, BBS

Hon IP Kwok-him, GBS, JP

Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung

Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Hon LEE Cheuk-yan
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Paul TSE Wai-chun, JP

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

Mr Kenneth CHEN, SBS	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mrs Justina LAM	Deputy Secretary General
Mr Andy LAU	Assistant Secretary General 1
Miss Odelia LEUNG	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
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Ms YUE Tin-po	Chief Council Secretary (4)3
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Carrie WONG	Assistant Legal Adviser 4
Miss Josephine SO	Senior Council Secretary (2)2
Mr Jove CHAN	Senior Council Secretary (2)6
Mr Joey LO	Senior Council Secretary (4)3
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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I. Confirmation of verbatim transcript/minutes of meetings

- (a) **Verbatim transcript of the special meeting held on 12 October 2012**
(LC Paper No. CB(2) 123/12-13)
- (b) **Minutes of the 4th meeting held on 26 October 2012**
(LC Paper No. CB(2) 124/12-13)

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

II. Matters arising

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

2. The Chairman said that he and the Deputy Chairman had conveyed to CS the various views of Members on the Administration's handling of the funding proposal of Old Age Living Allowance ("OALA"). As the Administration had requested that additional Finance Committee meetings be held on 9 November 2012 to continue the discussion on OALA, the Director of Administration ("D of Admin") had proposed that the special House Committee ("HC") meeting originally scheduled for the same day to discuss the proposed establishment of a Policy and Project Co-ordination Unit under CS's Office be re-scheduled to 23 November 2012. Members agreed to D of Admin's proposal.

3. Ms Emily LAU said that she read from news report that CS had expressed anxiety about the lack of trust within the community and the Legislative Council ("LegCo") in the Executive, making it difficult for the Executive to take forward its policies. Ms LAU considered that it was a matter of mutual respect between the Executive and the Legislature. The Executive should understand that if the Executive had consulted the public and LegCo on important policy initiatives and had taken their views into consideration before submitting the relevant proposals to LegCo, the Executive should have no problem in taking them forward. She pointed out that in the case of OALA, the Administration had encountered difficulties because it had not conducted prior consultation with the public and LegCo, or allowed sufficient time for Members' discussion after submitting the proposal to LegCo. She requested the Chairman to relay her views to CS. The Chairman undertook to do so.

4. Mr Ronny TONG said that at the last meeting with CS, he had conveyed to her the dissatisfaction and disappointment of some Members with the Administration's handling of the funding proposal of OALA, and the importance for the Administration to respect the Legislature and procedural fairness. He and the Chairman would relay Members' views to CS again during their next meeting.

(b) Five Amendment Rules made under sections 73 and 73A of the Legal Practitioners Ordinance and gazetted on 12 October 2012

(LC Paper No. LS 6/12-13)

[Previous papers:

paragraphs 7 to 19 of LC Paper No. LS 4/12-13 issued vide LC Paper No. CB(2) 60/12-13 dated 18 October 2012; and paragraphs 23 to 25 of the minutes of the 3rd House Committee meeting held on 19 October 2012 (LC Paper No. CB(2) 71/12-13 issued vide LC Paper No. CB(2) 102/12-13 dated 25 October 2012)]

5. The Chairman said that at the HC meeting on 19 October 2012, Members agreed to form a subcommittee to study the five Amendment Rules made under sections 73 and 73A of the Legal Practitioners Ordinance (Cap. 159) and gazetted on 12 October 2012 (L.N. 151 to L.N. 155). Only two Members, namely Mr Albert HO and Mr Dennis KWOK, had signified to join the subcommittee by the deadline for signification of membership.

6. The Chairman further said that apart from issues relating to the legal profession, the five Amendment Rules also involved consumer interests. Members might wish to consider extending the deadline for signification of membership of the subcommittee to allow other Members to consider joining it.

7. Mr Ronny TONG said that as the five Amendment Rules related to the handling of clients' money by a solicitor, the protection of consumer interests was an important issue which warranted examination by LegCo. He appealed to Members to join the subcommittee.

8. Mr Dennis KWOK considered it necessary for the five Amendment Rules to be studied in detail by the subcommittee.

9. Members agreed to extend the deadline for signification of membership of the subcommittee. In addition to the two Members who had already joined the subcommittee, the following Members also agreed to join: Ms Cyd HO and Dr Priscilla LEUNG (as advised by Ir Dr LO Wai-kwok).

10. The Chairman said that the Secretariat would issue another circular to invite Members to join the subcommittee. As the deadline for amending the five Amendment Rules was 14 November 2012, he proposed that a motion be moved at the Council meeting of 7 November 2012 to extend the scrutiny period of the Amendment Rules to 5 December 2012. Members agreed.

III. Further business for the Council meeting of 7 November 2012

(a) Tabling of papers

Report No. 2/12-13 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 127/12-13 issued vide LC Paper No. CB(3) 97/12-13 dated 1 November 2012)

11. The Chairman said that the Report covered six items of subsidiary legislation, including the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012 (L.N. 109), the period for amendment of which would expire on 7 November 2012. As the Chairman of the relevant subcommittee had indicated intention to speak on the Order on behalf of the subcommittee, a motion would be moved at that Council meeting to take note of the Report in relation to the Order.

(b) Questions

(LC Paper No. CB(3) 93/12-13)

12. The Chairman said that Dr Helena WONG had replaced her oral question.

IV. Business for the Council meeting of 14 November 2012

(a) Questions

(LC Paper No. CB(3) 92/12-13)

13. 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

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

(c) Government motion

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

(d) **Members' motions**

(i) **Motion on "Vote of no confidence in the Secretary for Development and the Secretary for Education"**

(Wording of the motion issued vide LC Paper No. CB(3) 98/12-13 dated 1 November 2012.)

16. The Chairman said that the above motion would be moved by Mr WONG Yuk-man.

(ii) **Motion to be moved by Hon CHAN Yuen-han**

17. The Chairman said that the subject of the motion to be moved by Miss CHAN Yuen-han was "Alleviating poverty". The wording of the motion had been issued to Members.

18. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 7 November 2012.

Report on study of subsidiary legislation

19. The Chairman invited Members to note the list of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 14 November 2012. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 6 November 2012.

V. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 125/12-13)

20. The Chairman invited Members to note the current position on Bills Committees and subcommittees as set out in the paper. He informed Members that there were 10 subcommittees under HC (i.e. seven subcommittees on subsidiary legislation/other instruments, one subcommittee on policy issues and two subcommittees on other Council business) in action.

VI. Proposal of the Panel on Information Technology and Broadcasting for a select committee to be appointed to inquire into issues relating to the discontinuation of broadcasting service by Digital Broadcasting Corporation Hong Kong Limited

(LC Paper No. CB(4) 85/12-13)

21. At the invitation of the Chairman, Mr WONG Yuk-man, Chairman of the Panel on Information Technology and Broadcasting ("ITB Panel") said that the ITB Panel held a special meeting on 26 October 2012 to follow up issues relating to the discontinuation of broadcasting service by Digital Broadcasting Corporation Hong Kong Limited ("DBC"). Other than two members of the Board of DBC who declined the Panel's invitation, Mr Albert CHENG who was the Founder, President and Editor-in-Chief of DBC, Mr Morris HO who was the Chief Executive Officer of DBC, representatives of "爭取 DBC 復播運動行動委員會" and representatives of the Administration had attended the meeting. The Panel noted that the Secretary for Commerce and Economic Development ("SCED") had met with the management of DBC on issues relating to the operation of DBC, including the disagreement among its shareholders on further investments into DBC. SCED had made it clear to the management of DBC that it was inappropriate for the Government to interfere with the internal operation of broadcasting companies, nor to play the role of commercial mediator to resolve disagreements among the shareholders of a private company.

22. Mr WONG Yuk-man said that having regard to the alleged recordings of DBC meetings circulating on the Internet from 20 October 2012, some Panel members considered that there was prima facie evidence to suggest that the decision of some of the major shareholders against making further investments into DBC was a result of political interference from the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("the Liaison Office"). These members were dissatisfied that the Administration had treated the matter simply as an internal affair of DBC, and used the dispute among the major shareholders of DBC as an excuse for declining to comment on the matter. Some Panel members were also of the view that the discontinuation of broadcasting service by DBC was a matter of wide public concern as freedom of speech was at stake. Not only the staff of DBC lost their jobs, the audience at large was also deprived of a media choice. These Panel members considered that it was in the public's interest for LegCo to inquire into the matter to find out the causes of the discontinuation of broadcasting service by DBC.

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23. Mr WONG Yuk-man further said that some other Panel members considered the rumour of political interference as pure speculation, as DBC had been allowed to soft launch its service in August 2011 and had not been restricted from criticizing the Government. These Panel members also expressed concern that LegCo's inquiry into issues relating to the discontinuation of broadcasting service by DBC would prejudice any impending litigation among its major shareholders.

24. Mr WONG Yuk-man added that at the special meeting of the ITB Panel, Mr Albert CHAN moved a motion proposing that a select committee be appointed by LegCo to inquire into issues relating to the discontinuation of broadcasting service by DBC. The motion was set out in the Appendix to the paper. Mr CHAN's motion was put to vote. Nine members voted for and eight members against the motion. As the motion was passed, the Panel agreed to seek HC's support for its proposal for a select committee to be appointed by LegCo.

25. The Chairman said that should HC support the ITB Panel's proposal, it would take over the necessary preparatory work for the appointment of a select committee. Should HC not support the proposal, any Member could move a motion in the Council on his or her own accord for the appointment of such a select committee. He invited views from Members on the Panel's proposal.

26. Mr SIN Chung-kai said that Members belonging to the Democratic Party supported the proposal for the appointment of a select committee to inquire into the matter. In his view, from what Mr Albert CHENG had said during the special ITB Panel meeting, the matter was more than a dispute among the shareholders of a private company, and involved the question of whether the Liaison Office had exerted any political influence resulting in the discontinuation of broadcasting service by DBC. As Mr Albert CHENG was subject to an injunction issued by the High Court prohibiting him from disclosing details about the business affairs of DBC, LegCo should provide a platform for him and other parties concerned such as Mr WONG Cho-bau to give a full account of the matter to allay public concerns. Given the gravity of the allegations and that significant public interests including freedom of speech were at stake, he appealed to Members to support the ITB Panel's proposal.

27. Mr Frederick FUNG said that he was supportive of the proposed appointment of a select committee to inquire into the matter. As the Liaison Office was allegedly involved in the discontinuation of broadcasting service by DBC, it was incumbent upon LegCo to find out the truth. The decisions of Mr WONG Cho-bau not to make further investments into DBC or sell his shares were, in his view, unusual

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business decisions which caused doubts about his intention. Mr FUNG stressed that the statutory licensing and regulatory bodies had the responsibility to look actively into the matter. To ensure public access to more media choices and to facilitate the sustainable development of digital broadcasting in Hong Kong, he also considered it necessary for LegCo to appoint a select committee to inquire into the matter.

28. Ms Cyd HO said that Members belonging to the Labour Party supported the proposal for appointing a select committee to inquire into the matter. She stressed that a shareholder's decision of hiring or not hiring a programme host according to the Liaison Office's likes or dislikes could hardly be regarded as a commercial decision. It was of paramount importance that the editorial autonomy and freedom of speech enjoyed by broadcasting stations should be independent of political and financial influence. As the injunction issued by the High Court prohibited disclosure of details about the business affairs of DBC, she considered it necessary for LegCo to appoint a select committee to enable the public to obtain more information on the matter.

29. Mr Charles MOK said that over the past few days he had received more than 100 emails requesting LegCo to inquire into the discontinuation of broadcasting service by DBC. The sit-in protest and hunger strike currently staged by some demonstrators outside the Central Government Offices at Tamar also pointed to the wide public concern over the matter. Apart from the alleged political influence exerted by the Liaison Office and the threat to freedom of speech, he was also concerned about the Administration's inaction on the matter. He stressed that the appointment of a select committee with the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") could afford legal protection to the parties concerned in telling the truth. He expressed support for the ITB Panel's proposal.

30. Ms Claudia MO said that Members belonging to the Civic Party supported the ITB Panel's proposal. In her view, the decision of some shareholders of DBC not to make further investments or sell their shares was unusual which was evident that the matter was not simply a dispute among shareholders in a private company. It should be noted that following the circulation on the Internet of the alleged recordings of DBC meetings, no one came out to deny the facts. Given the many unanswered questions about the matter, the appointment of a select committee to inquire into matter would enable the public to find out the truth. She added that as the discontinuation of broadcasting service by DBC had deprived members of the public of a media choice, it was in the public's interest to find out the causes for the discontinuation of broadcasting service by DBC. She appealed to Members belonging to the pro-establishment camp to support the ITB Panel's proposal.

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31. Mr LEUNG Kwok-hung considered that the best way to find out the truth was to appoint a select committee with the powers under the P&P Ordinance to inquire into the matter. The conduct of such an inquiry would also do justice to all parties concerned, including Mr WONG Cho-bau and Professor Arthur LI, the Chairman of the Board and the Management Committee Member of DBC respectively.

32. Mrs Regina IP said that she did not support the proposal for the appointment of a select committee to inquire into the matter. She was a member of the ITB Panel and had attended the special meeting on 26 October 2012. However, she had left the meeting early in order to attend the special meeting of the Panel on Health Services held on the same day and had not participated in the voting on the motion for the appointment of a select committee. Stressing that it had all along been her stance that LegCo's investigative powers under the P&P Ordinance should be exercised with extreme care, she cautioned that such inquiries could be very time and resources consuming and might not necessarily find out the truth. In the case of DBC, she considered that its mode of operation was the major cause of its failure. She considered it inappropriate for LegCo to invoke the powers under the P&P Ordinance to inquire into a commercial dispute.

33. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") had all along held the view that the powers under the P&P Ordinance should not be exercised lightly. Based on the information about DBC available to Members at the present stage, Members belonging to DAB considered that there was insufficient ground to warrant an inquiry by LegCo. They also considered it inappropriate for LegCo to interfere with the internal operation of a media company. They therefore did not support the ITB Panel's proposal.

34. Mr CHAN Chi-chuen said that there were many doubts surrounding the case of DBC, but the Administration's position was that it was only an internal dispute of a commercial company and the Administration had no role to play. It was beyond comprehension that SCED did not bother to request DBC to disclose the full version of the recordings of DBC meetings. In his view, the Administration's attempt to play down the matter had caused the most doubt. He shared the view that the appointment of a select committee by LegCo to inquire into the matter was the most appropriate way to find out the truth and to do justice to all parties concerned including the Liaison Office and the Administration. He expressed support for the ITB Panel's proposal.

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35. Mr Albert CHAN said that the motion moved by him and passed at the special ITB Panel meeting was neutrally worded. He pointed out that the Administration's responses to the queries raised about the alleged political interference were vague. Neither Mr WONG Cho-bau nor the Liaison Office had come forward to explain the matter. In view of the gravity of the allegations and the injunction issued by the High Court prohibiting the relevant parties, including Mr Albert CHENG, from disclosing details about the business affairs of DBC, he considered it in the public's interest for LegCo to pursue the matter. He opined that compared to the investigation committee appointed in the Fourth LegCo in respect of the motion to censure Mr KAM Nai-wai, the case of DBC was far more serious and had much stronger grounds to warrant an inquiry by LegCo. He criticized some Members for adopting double standards in considering proposals for LegCo to inquire into matters of public concern.

36. Mr Ronny TONG declared that he had been providing legal advice to some of the shareholders of DBC. He would refrain from voting on the matter to avoid any possible perceived conflict of interests.

37. Mr WONG Kwok-kin said that he had also received letters from some members of the public requesting LegCo to inquire into the discontinuation of broadcasting service by DBC, but he noted that the letters were in standard format with identical contents. Mr WONG pointed out that there could be many cases of doubt, and queried whether LegCo should look into each and every such case. In his view, Members could consider the need for inquiring into the matter after the relevant injunction had expired or the legal proceedings had been concluded. He said that Members belonging to the Hong Kong Federation of Trade Unions did not support the ITB Panel's proposal.

38. Dr Helena WONG shared the view that the matter was not simply a commercial decision. In her view, the alleged political interference by the Liaison Office was very serious and involved significant public interests. She stressed that freedom of the press and freedom of speech were the core values of Hong Kong and the cornerstones of democracy. It was regrettable that Members belonging to the pro-establishment camp took the matter lightly. She supported the ITB Panel's proposal for a select committee to be appointed to conduct an inquiry to find out the truth and to do justice to all parties concerned.

39. Mr NG Leung-sing sought advice from the Legal Adviser on whether the appointment of a select committee to inquire into issues relating to the discontinuation of broadcasting service by DBC at this stage would prejudice any impending litigation among its shareholders.

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40. At the invitation of the Chairman, Legal Adviser said that based on the past experience of LegCo in exercising the powers under the P&P Ordinance, if there were pending criminal or civil proceedings related to the subject of a select committee's inquiry, the select committee concerned could adopt procedural measures to avoid prejudice to a person's interest in pending legal proceedings.

41. As there were divided views among Members, the Chairman put to vote the ITB Panel's proposal for a select committee to be appointed to inquire into issues relating to the discontinuation of broadcasting service by DBC. Ms Cyd HO requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Dr Joseph LEE, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Mr IP Kin-yuen.
(25 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Mr Michael TIEN, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE.
(36 Members)

The following Member abstained:

Dr LAM Tai-fai.
(1 Member)

42. The Chairman declared that 25 Members voted for the proposal, 36 Members voted against the proposal and one Member abstained. The ITB Panel's proposal was negated.

VII. Proposal from Dr Hon Fernando CHEUNG for setting up a subcommittee on retirement protection under the House Committee
(Letter dated 30 October 2012 from Dr Hon Fernando CHEUNG (LC Paper No. CB(2) 131/12-13(01)))

43. Dr Fernando CHEUNG said that although the Administration had indicated that a working group would be set up under the Commission on Poverty ("CoP") to study retirement protection and the Subcommittee on Poverty had been established under HC, he considered that a dedicated subcommittee should be set up under HC to examine issues relating to retirement protection which was a big topic. He explained that while the Subcommittee on Poverty would focus on issues concerning poverty alleviation such as the definition of the poverty line, reform of the Comprehensive Social Security Assistance Scheme, children in poverty and cross-generational poverty, the proposed subcommittee would study issues of a wider scope covering more than poverty alleviation such as the Mandatory Provident Fund ("MPF") Scheme, given that people across different social strata needed retirement protection. He pointed out that the funds injected into various retirement related schemes amounted to some \$60 billion a year. As Hong Kong would face serious problem of an aging population, it was important to establish a sound retirement protection system. He appealed to Members to support his proposal.

44. Dr KWOK Ka-ki expressed support for Dr Fernando CHEUNG's proposal. He said that as pointed out by some Members during the discussions on OALA, issues relating to retirement protection exceeded the scope of poverty alleviation, the subject of retirement protection should therefore not be studied by the Subcommittee on Poverty. He added that as universal retirement protection involved policy areas which straddled various policy bureaux, such as welfare and the MPF Scheme, it was more appropriate to set up a dedicated subcommittee under HC to study the subject. It was also important to set up the proposed subcommittee under HC as early as possible to provide a platform for Members to express their various views, as the Administration would publish the results of its study on retirement protection by the end of the year.

45. Ms Emily LAU expressed support for Dr Fernando CHEUNG's proposal as a dedicated subcommittee would provide a forum for Members to have focused and thorough discussions on the subject which was of wide public concern. She shared the view that the proposed subcommittee should be set up under HC instead of a Panel as the issues involved various policy bureaux. In addition to the studies being undertaken by the Administration, she hoped that the Secretariat would also conduct research on relevant issues to facilitate the work of the proposed subcommittee.

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46. Mr LEUNG Kwok-hung said that retirement protection covered more than poverty alleviation. The Administration should consider retirement protection in a comprehensive manner to provide a solution to problems such as elderly poverty and retirement protection for housewives. He criticized the Chief Executive for not having included universal retirement protection in his election platform. He supported the setting up of the proposed subcommittee to provide a platform for Members to receive public views and conduct further studies on the subject.

47. Mrs Regina IP said that Members belonging to the New People's Party could not support Dr Fernando CHEUNG's proposal as he had not clearly explained the concept of "universal". She pointed out that the retirement protection system in the United States of America ("US") did not have universal coverage as housewives were not covered.

48. Mr LEUNG Yiu-chung said that a subcommittee under HC would provide a platform for Members to express and clarify their different views on the subject. In his view, it was more appropriate to set up the proposed subcommittee under HC instead of a Panel, given that issues relating to retirement protection would be studied by CoP led by CS. He added that the proposed subcommittee under HC should be set up as early as possible.

49. Mr TAM Yiu-chung said that retirement protection was a matter of concern to all Members and a motion debate on the subject was held at the Council meeting of 24 October 2012. As regards the proposal to set up a subcommittee on retirement protection under HC, Mr TAM said that Members belonging to DAB did not support it. He explained that in the Fourth LegCo, the Subcommittee on Retirement Protection was appointed under the Panel on Welfare Services ("the WS Panel") and the Subcommittee had studied issues relating to retirement protection in a focused and systematic manner. Furthermore, as the Administration had indicated that retirement protection would be studied by a working group under CoP, Members belonging to DAB considered that the subject should be considered by the Subcommittee on Poverty recently appointed under HC, given that the Subcommittee's Government counterpart was CoP.

50. Mr TAM Yiu-chung further said that recently various proposals for setting up subcommittees under HC had been put forward for discussion. He stressed that Members belonging to DAB would not support such proposals lightly as the terms of reference of the 18 Panels had already covered all policy areas and issues of concern should be followed up by

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the relevant Panels. The setting up of subcommittees under HC might not only usurp the roles of the relevant Panels but also increase the workload of the Secretariat. He called on Members to consider such proposals prudently.

51. Mr Frederick FUNG said that when OALA was discussed at the meetings of the WS Panel and the Finance Committee, he had pointed out that poverty alleviation and retirement protection were two different concepts and there was no absolute correlation between them. While poverty alleviation was related to issues such as provision of comprehensive social security assistance, retirement protection aimed to help retirees maintain a satisfactory standard of living, regardless of whether they were in need of financial support. Hence, he did not consider it appropriate for the Subcommittee on Poverty to study issues relating to retirement protection. He supported Dr Fernando CHEUNG's proposal.

52. Miss Alice MAK said that Members belonging to the Hong Kong Federation of Trade Unions had all along held the view that retirement protection did not fall within the policy area of poverty alleviation, hence they did not support the Administration's plan to set up a working group under CoP to study retirement protection. They also considered that there was an urgent need for LegCo to embark on its study of retirement protection, and the proposed subcommittee on retirement protection should be set up under the WS Panel. Where necessary, the proposed subcommittee could hold joint meetings to discuss issues which straddled the work of other Panels such as MPF.

53. Mr Albert HO was of the view that the proposed subcommittee on retirement protection should be formed under HC rather than the WS Panel, given that issues relating to retirement protection straddled a number of policy areas including population policy, financial affairs and welfare. Should the proposed subcommittee be set up under the WS Panel, he was concerned that when issues falling within the purview of other Panels were discussed, the subcommittee and the Panel concerned might not be able to agree on which committee should take the lead in discussing the issues. Given the great importance attached to retirement protection, he considered it appropriate that the proposed subcommittee be set up under HC. Mr HO further said that for Members who had doubts about universal retirement protection system, the proposed subcommittee would provide a platform for them to raise their concerns. He appealed to Members to support Dr Fernando CHEUNG's proposal.

54. Mr CHEUNG Kwok-che said that he was the Chairman of the Subcommittee on Retirement Protection formed under the WS Panel in the Fourth LegCo. He pointed out that the Subcommittee had faced some restrictions in the course of its work. The Subcommittee had no Government counterpart and had to undertake many studies on its own. The Subcommittee had considered inviting members of the Panel on Financial Affairs and the Panel on Manpower to join its discussion on MPF. It had not done so on the consideration that members of these Panels might have difficulties in following up the relevant issues as they had not participated in the past discussions of the Subcommittee. Mr CHEUNG considered that the most desirable arrangement was to set up the proposed subcommittee under HC, the membership of which would then be open to all Members. Given the importance of retirement protection, he called on Members to support Dr Fernando CHEUNG's proposal.

55. Mr WU Chi-wai said that during the motion debate on "Universal Retirement Protection System" at the Council meeting of 24 October 2012, many Members had expressed the view that LegCo should appoint a subcommittee to study the subject of retirement protection. Given the importance attached by Members to the subject which straddled various policy areas, he supported Dr Fernando CHEUNG's proposal for setting up the proposed subcommittee under HC.

56. Mrs Regina IP said that the retirement protection system in US cited by Dr Fernando CHEUNG during the motion debate at the Council meeting of 24 October 2012 was not a "universal" system as claimed by Dr CHEUNG because only those US citizens who had joined the work force for more than 10 years and had paid taxes on their incomes were eligible for the retirement protection provided by the government.

57. Dr Fernando CHEUNG clarified that his proposal was to set up a subcommittee on retirement protection under HC and he had never mentioned about "universal" retirement protection in his proposal. He was also concerned that should the proposed subcommittee be set up under the WS Panel, it would be difficult for the subcommittee to study issues falling within the purview of other Panels such as MPF. Dr CHEUNG stressed that the importance of the issue of MPF was underlined by the fact that the annual contributions made by employers and employees amounted to some \$43 billion and the accumulated assets totalled some \$400 billion. Given the importance of the establishment of a retirement protection system to the future of Hong Kong and the various policy areas involved, the proposed subcommittee should be set up under HC.

Action

58. The Chairman advised that apart from appointing subcommittees under HC or individual Panels, two or more Panels might jointly appoint a subcommittee to study any matter of common interest to the relevant Panels.

59. Given Members' diverse views, the Chairman put to vote Dr Fernando CHEUNG's proposal for setting up a subcommittee on retirement protection under HC. Dr Fernando CHEUNG requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Dr Joseph LEE, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Mr WU Chi-wai, Mr Gary FAN, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Mr POON Siu-ping.

(24 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr IP Kwok-him, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok and Mr Christopher CHUNG.

(26 Members)

The following Members abstained:

Mr WONG Kwok-hing, Mr CHAN Kin-por, Mr WONG Kwok-kin, Mrs Regina IP, Mr Michael TIEN, Miss CHAN Yuen-han, Miss Alice MAK, Mr KWOK Wai-keung, Mr TANG Ka-piu and Mr Tony TSE.

(10 Members)

60. The Chairman declared that 24 Members voted for the proposal, 26 Members voted against the proposal and 10 Members abstained. Dr Fernando CHEUNG's proposal was negated.

Action

VIII. Any other business

61. There being no other business, the meeting ended at 3:50 pm.

Council Business Division 2
Legislative Council Secretariat
8 November 2012