

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 655/12-13

Ref : CB2/H/5/12

**House Committee of the Legislative Council**

**Minutes of the 16th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 8 February 2013**

**Members present:**

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

Hon LEE Cheuk-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-yee, GBS, JP

Hon Paul TSE Wai-chun, 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 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 Ronny TONG Ka-wah, SC (Deputy Chairman)  
Hon Albert HO Chun-yan  
Dr Hon LAU Wong-fat, GBM, GBS, JP  
Hon Martin LIAO Cheung-kong, JP

**Clerk in attendance :**

Miss Flora TAI

Clerk to the House Committee

**Staff in attendance :**

Mr Kenneth CHEN, SBS	Secretary General
Ms Connie FUNG	Acting 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
Mr Kelvin LEE	Acting 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
Miss Carrie WONG	Assistant Legal Adviser 4
Miss Winnie LO	Assistant Legal Adviser 7
Ms Clara TAM	Assistant Legal Adviser 9
Mr Stephen LAM	Assistant Legal Adviser 11
Miss Josephine SO	Senior Council Secretary (2)2
Mr Jove CHAN	Senior Council Secretary (2)6
Mr Ringo LEE	Senior Legislative Assistant (2)1
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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**I. Confirmation of the minutes of the 15th meeting held on 25 January 2013**

*(LC Paper No. CB(2) 599/12-13)*

The minutes were confirmed.

**II. Matters arising**

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

2. The Chairman said that he had relayed to CS Members' concern about the short interval between the presentation of the Policy Address and the Budget this year, and their requests for the Administration to

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consult Members before deciding on the timing of future Policy Address, as well as to publish a policy agenda and a progress report when the Policy Address was delivered. CS reiterated that the Administration had yet to decide on the timing of future Policy Address, and indicated that she was willing to listen to Members' views on this matter when attending a special meeting of the House Committee ("HC") in future.

3. The Chairman further said that during the debate on the Motion of Thanks, CS had mentioned that the Steering Committee on Population Policy ("SCPP") chaired by her had held its first meeting on 18 January 2013, and SCPP would study the relevant issues in various areas and devise policy measures accordingly. The Chairman proposed to invite CS to a special HC meeting to discuss population policy with Members. Members agreed. The Chairman added that Members might also take the opportunity to convey to CS during the special HC meeting their views on the timing of future Policy Address and the arrangements relating to briefings on Policy Address for Panels by Bureau Directors, the latter being raised by Mr WONG Kwok-hing and would be discussed under agenda item VIII below.

### 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)**

**Pesticides (Amendment) Bill 2013**

*(LC Paper No. LS 20/12-13)*

4. At the invitation of the Chairman, Acting Legal Adviser ("Atg LA") said that the Bill sought to amend the Pesticides Ordinance (Cap. 133) and its subsidiary legislation to implement the requirements of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants by prohibiting the export or use, except under a permit, of pesticides covered by the Conventions. The Bill also proposed to update certain provisions of the Ordinance relating to regulation of pesticides and extend the application of the Ordinance to the Government.

5. Mr Albert CHAN considered it necessary to form a Bills Committee to study the Bill in detail, given that any improper use of pesticides might pose a serious health hazard, especially to children. Members agreed. Mr Tommy CHEUNG and Mr Albert CHAN agreed to join the proposed Bills Committee.

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**(b) Legal Service Division report on subsidiary legislation gazetted on 25 January 2013 and tabled in Council on 30 January 2013**  
*(LC Paper No. LS 21/12-13)*

6. At the invitation of the Chairman, Atg LA said that a total of three items of subsidiary legislation were gazetted on 25 January 2013 and tabled in the Council on 30 January 2013.

7. Regarding the Personal Data (Privacy) (Amendment) Ordinance 2012 (Commencement) Notice (L.N. 5), Atg LA said that it was to appoint 1 April 2013 as the day on which certain provisions of the Amendment Ordinance would come into operation. The other provisions of the Amendment Ordinance not covered by L.N. 5 had been brought into operation on 1 October 2012 by section 1(2) of the Amendment Ordinance.

8. Mr James TO considered it necessary to form a subcommittee to study L.N. 5 in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Ms Claudia MO, Mr Charles MOK, Mr Dennis KWOK and Mr SIN Chung-kai.

9. Members did not raise any queries on the other two items of subsidiary legislation (L.N. 3 and L.N. 4).

10. The Chairman reminded Members that the deadline for amending the three items of subsidiary legislation was 27 February 2013, or 20 March 2013 if extended by a resolution of the Council. To allow sufficient time for the scrutiny of L.N. 5, the Chairman proposed to move a motion, in his capacity as Chairman of HC, at the Council meeting of 20 February 2013 to extend the scrutiny period of the Commencement Notice to 20 March 2013. Members agreed.

**(c) Legal Service Division report on subsidiary legislation gazetted on 1 February 2013 and tabled in Council on 6 February 2013**  
*(LC Paper No. LS 23/12-13)*

11. At the invitation of the Chairman, Atg LA said that a total of eight items of subsidiary legislation were gazetted on 1 February 2013 and tabled in the Council on 6 February 2013.

12. Regarding the five items of subsidiary legislation made under the new Companies Ordinance (28 of 2012) ("CO") (L.N. 7 to L.N. 11), Atg LA said that the Administration had identified 13 items of subsidiary legislation that were required to implement CO, which would be introduced in batches. The first batch, which comprised L.N. 7 to L.N.

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11, did not include the subsidiary legislation relating to auditor's liability and inspection of company records. The Panel on Financial Affairs had been consulted on the 13 items of subsidiary legislation on 7 January 2013 and in general supported the Administration's suggestion that one single subcommittee be set up to study the 13 items of subsidiary legislation.

13. Members agreed that one subcommittee be set up to study the 13 items of subsidiary legislation relating to the implementation of the new CO. The following Members agreed to join the subcommittee: Mr James TO, Mr Andrew LEUNG, Ms Starry LEE, Mr Kenneth LEUNG, Mr Dennis KWOK and Mr CHUNG Kwok-pan.

14. Regarding the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2013 (L.N. 13), Atg LA said that the purpose of these Rules was to add the HSI Volatility Index futures contract and the US Dollar vs Renminbi (Hong Kong) futures contract and their respective position limits and reportable positions to Schedule 1 to the principal Rules. L.N. 13 would come into operation on 12 April 2013.

15. Mr James TO considered it necessary to form a subcommittee to study L.N. 13 in detail. Members agreed. Mr James TO and Mr SIN Chung-kai agreed to join the proposed subcommittee.

16. As regards the Residential Properties (First-hand Sales) Ordinance (Commencement) Notice (L.N. 14), Atg LA said that the Residential Properties (First-hand Sales) Ordinance (19 of 2012), which sought to further enhance the transparency and fairness of the sales arrangements of first-hand residential properties and enhance consumer protection, was passed by the Legislative Council ("LegCo") in June 2012. L.N. 14 appointed 2 and 29 April 2013 respectively as the days on which certain sections of the Ordinance (including the interpretation clauses as well as the provisions relating to the appointment and functions of the Authority) and the remaining provisions of the Ordinance would come into operation. According to the Administration, the proposed commencement arrangements would enable the appointment of a public officer to be the Authority on or after 2 April 2013. The Authority would then issue a few weeks before 29 April 2013 guidelines on compliance with the requirements of the Ordinance and would start enforcing the Ordinance on 29 April 2013.

17. Mr James TO considered it necessary to form a subcommittee to study L.N. 14 in detail. Members agreed. Mr James TO agreed to join the proposed subcommittee.

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18. Members did not raise any queries on the Designation of Libraries (Amendment) (No. 2) Order 2013 (L.N. 12).

19. The Chairman reminded Members that that the deadline for amending the subsidiary legislation was 27 February 2013, or 27 March 2013 if extended by a resolution of the Council. To allow sufficient time for the scrutiny of the seven items of subsidiary legislation on which subcommittees had been formed, the Chairman proposed to move motions, in his capacity as Chairman of HC, at the Council meeting of 20 February 2013 to extend the scrutiny period of the subsidiary legislation to 27 March 2013. Members agreed.

**IV. Business for the Council meeting of 20 February 2013**

**(a) Questions**

*(LC Paper No. CB(3) 351/12-13)*

20. 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**

**(i) Trust Law (Amendment) Bill 2013**

**(ii) District Councils (Amendment) Bill 2013**

21. The Chairman said that the Administration had given notice to present the above two Bills to the Council on 20 February 2013. HC would consider these Bills at its meeting on 22 February 2013.

**(c) Government motion**

**Proposed resolution under section 29 of the Pharmacy and Poisons Ordinance (Cap. 138) to be moved by the Secretary for Food and Health**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 335/12-13 dated 30 January 2013.)*

*(LC Paper No. LS 22/12-13)*

22. At the invitation of the Chairman, Atg LA said that the proposed resolution was to seek LegCo's approval of the Pharmacy and Poisons (Amendment) Regulation 2013 and the Poisons List (Amendment) Regulation 2013 to add three substances used respectively for the treatment of essential hypertension, chronic hepatitis C genotype 1

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infection and active rheumatoid arthritis in adult patients to Divisions A of the First and Third Schedules to the Pharmacy and Poisons Regulations and to Division A of Part I of the Schedule to the Poisons List Regulations. Following the addition of these substances to the principal Regulations, the sale and supply of these substances would be subject to different levels of control under the Pharmacy and Poisons Ordinance (Cap. 138). The Amendment Regulations, if approved by LegCo, would come into operation on the day of publication in the Gazette.

23. Members did not raise any objection to the Administration moving the proposed resolution at the Council meeting of 20 February 2013.

**(d) Members' motions**

- (i) Motion under the Legislative Council (Powers and Privileges) Ordinance to be moved by Hon Cyd HO**  
*(Wording of the motion issued vide LC Paper No. CB(3) 355/12-13 dated 6 February 2013.)*

24. The Chairman informed Members that the speaking time limit for each Member at the above motion debate was 15 minutes. He added that Ms Cyd HO's letter on the same issue would be discussed under agenda item X below.

- (ii) Motion on "Implementing dual universal suffrage" to be moved by Hon Ronny TONG**  
*(Wording of the motion issued vide LC Paper No. CB(3) 346/12-13 dated 1 February 2013.)*
- (iii) Motion on "Ensuring occupational safety" to be moved by Hon POON Siu-ping**  
*(Wording of the motion issued vide LC Paper No. CB(3) 347/12-13 dated 1 February 2013.)*

25. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above motions was Saturday, 9 February 2013.

**V. Report of Bills Committees and subcommittees**

**Report of the Subcommittee on Telecommunications  
(Telecommunications Apparatus) (Exemption from Licensing)  
(Amendment) Order 2012**

*(LC Paper No. CB(4) 363/12-13)*

26. Mr Charles MOK, Chairman of the Subcommittee, said that the Order sought to amend the principal Order to withdraw the licensing



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exemptions for selling, importing or exporting Personal Handy Phone System apparatus operating within the 1895-1906.1 MHz band and provide for transitional arrangements for the existing licensing exemptions in respect of establishment or maintenance, and possession or use of such apparatus.

27. Mr Charles MOK further said that the Subcommittee had held two meetings with the Administration to examine the Order. The main issues discussed by the Subcommittee included the estimated number of affected apparatus, transitional arrangements, enforcement actions and practice in relation to the illegal possession or use of telecommunications apparatus and re-planning of the spectrum within the 1895-1906.1 MHz band. Mr MOK added that the Subcommittee supported the Order and had not proposed any amendment to it.

28. The Chairman reminded Members that as the deadline for amending the Order was 27 February 2013, the deadline for giving notice of amendments, if any, was Wednesday, 20 February 2013.

## **VI. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2) 600/12-13)*

29. The Chairman said that as at 7 February 2013, there were two Bills Committees, five subcommittees under HC (i.e. two subcommittees on subsidiary legislation, one subcommittee on policy issues and two subcommittees on other Council business) and seven subcommittees on policy issues under Panels in action. Three subcommittees on policy issues under Panels were on the waiting list.

## **VII. Paper of the Committee on Rules of Procedure**

### **Addressing questions to the Government at Council meetings**

*(LC Paper No. CROP 26/12-13)*

30. Mr TAM Yiu-chung, Chairman of the Committee on Rules of Procedure ("CRoP"), said that with the increase of 10 Members in the Fifth LegCo, CRoP of the Fourth LegCo had proposed that for each Council meeting in the Fifth LegCo at which both oral questions and written questions might be asked, the number of oral question slots be increased from six to seven, and that of written question slots be increased from 14 to 16. The proposal was endorsed by HC at its meeting on 25 May 2012, but the motion to amend the relevant provisions of the Rules of Procedure ("RoP") to implement the proposal had not been dealt with by the Council before the Fourth LegCo stood prorogued.

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31. Mr TAM Yiu-chung further said that CRoP of the Fifth LegCo had considered the matter and agreed that for each Council meeting at which both oral questions and written questions might be asked, the number of written question slots at a Council meeting should be increased to 16. As to whether the number of oral question slots should be increased from six to seven, CRoP had consulted all Members on the matter. The consultation result was that 36 Members considered that the number of oral question slots should be maintained at six at each Council meeting, while 33 Members supported increasing the number to seven.

32. Mr TAM Yiu-chung informed the meeting that in view of the consultation result, CRoP proposed that for each Council meeting at which both oral questions and written questions might be asked, the number of oral question slots be maintained at six, and that of written question slots be increased to 16. For those Council meetings at which only written questions might be asked, the number of written questions should be increased from 20 to 22. To implement this proposal, RoP 23(2) and rule 7(b) of the House Rules ("HR") should be amended.

33. Mr TAM Yiu-chung added that CRoP also proposed that RoP 23(1) be amended to accurately reflect the practice long adopted since the First LegCo that Members might address questions to the Government at any Council meeting except the first meeting of a term or a meeting at which the President was elected or the Chief Executive ("CE") delivered a Policy Address to the Council. He appealed to Members to support the recommendations of CRoP.

34. Members agreed to the proposals of CRoP as well as the proposed amendments to RoP 23(1) and (2) and rule 7(b) of HR as set out in the Appendix to the paper.

35. Mr Abraham SHEK said that addressing questions to the Government was one of the avenues through which Members monitored the work of the Government. He noted that some public officers tended to give lengthy replies to oral questions at Council meetings, leaving little time for Members to ask supplementary or follow-up questions. He suggested that the Administration's replies to an oral question should not be counted towards the 22-minute time limit for an oral question, so as to allow more Members to ask supplementary questions.

36. Ms Cyd HO remarked that the same situation also occurred at Panel meetings where it was the usual practice to set a time limit within which a member should ask his questions and the Administration should respond. She shared Mr Abraham SHEK's view that consideration should be given to discounting the time used by public officers in their

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replies from the 22-minute time limit for each oral question raised at Council meetings.

37. Mr SIN Chung-kai also agreed that public officers' replies should not be counted towards the time limit for oral questions so that Members' opportunities for asking supplementary questions would not be affected by the lengthy replies given by public officers.

38. Ms Emily LAU said that to ensure efficient conduct of Council business, limits should be set on the duration for a Member to ask a main question and a supplementary question and for a public officer to give a main reply.

39. The Chairman said that it was his observation that the main questions raised by some Members were quite lengthy. Furthermore, some Members tended to spend considerable time expressing their views when asking supplementary or follow-up questions. From time to time, the President had to remind Members to observe the relevant rules regarding the asking of questions.

40. Mr TAM Yiu-chung informed the meeting that CRoP had discussed the matter and guidelines were in place stipulating the time limits in respect of an oral question, which included the time limits for asking the main question and giving the main reply.

41. Mr James TIEN suggested that consideration could also be given to requesting the Administration to prepare a gist of the written main replies so that public officers would not need to read out the full lengthy main replies but only the salient points at Council meetings, thus leaving more time for Members to ask supplementary or follow-up questions.

42. Mr Tommy CHEUNG shared the view that it was not necessary for public officers to read out the entire lengthy main replies at Council meetings as Members could refer to the full written replies for details.

43. The Chairman said that it was the established practice for Members to read out the full text of their oral questions and the Administration their full reply at Council meetings for formal record.

44. At the invitation of the Chairman, Secretary General ("SG") said that rule 9A of HR stipulated that the time taken by an oral question should not exceed 22 minutes in total, of which not more than (a) three minutes should be used to ask the main question; (b) seven minutes should be used to give the main reply; and (c) one minute should be used to ask a supplementary or follow-up question. SG noted that there were

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occasions where public officers' main replies were in excess of seven minutes, and the President had reminded them to give concise answers to Members' questions. SG further advised that where the asking of an oral question by a Member and the public officer's main reply to the question had taken considerable time, it was the practice of the President to relax the total time limit for the question. SG added that should Members consider it necessary to review the current guidelines governing the time limits in respect of oral questions, the matter could be referred to CRoP for consideration.

45. Ms Claudia MO considered it a waste of time and public resources for public officers to read out the full main replies to oral questions at Council meetings, given that these replies were also provided in writing. Ms MO further remarked that she saw no problem with Members expressing their views on certain issues during oral question time, as it was the responsibility of Members to monitor and give views on the work of the Government.

46. Mr Paul TSE considered it important for Members to understand the purpose of asking oral questions at Council meetings. He said that in the House of Commons of the United Kingdom ("UK") Parliament, Members of Parliament ("MPs") might put to the Prime Minister without notice questions on any subjects during the Prime Minister's Question Time. Members should make reference to such mechanism which, in his view, would enable a more fruitful exchange of views between the Executive and the Legislature and better achieve the purpose of oral question time. Mr TSE suggested that CRoP should review not only the time limits for oral questions, but the existing arrangement for addressing questions to the Government at Council meetings.

47. Dr LAM Tai-fai expressed objection to the suggestion of requesting the Administration not to read out the entire main replies to oral questions at Council meetings, as it would deprive the public of their right to hear the full replies to the questions when observing the Council meetings. Dr LAM supported the view that the time taken by public officers to reply to oral questions should not be counted towards the time limit of 22 minutes for each oral question. He also considered it necessary for the President to enforce strictly the relevant time limits for oral questions.

48. Mr IP Kwok-him considered that the crux of the matter lay in the enforcement of the time limits for oral questions stipulated in rule 9A of HR. Subject to Members' agreement, the Chairman of HC could convey to the President Members' view on the need to strictly enforce rule 9A of HR.

49. Dr Kenneth CHAN said that it was his understanding that the LegCo Secretariat would study and make suggestions on the wording of the oral questions raised by Members at Council meetings to ensure that the length of the questions would be within the three-minute limit. Dr CHAN further opined that it might not be appropriate for LegCo to adopt practices similar to the Prime Minister's Question Time in the UK House of Commons. He pointed out that during the Prime Minister's Question Time, except for the Leader of the Opposition who was allowed to ask several questions successively to follow up on his first question, other MPs could normally ask only one supplementary question. In Dr CHAN's view, the Administration should be asked to give concise replies to Members' questions so as to allow more time for Members to ask supplementary or follow-up questions.

50. Mr TAM Yiu-chung said that as meetings of LegCo were broadcast live on television and radio, it was necessary for Members to read out their main questions and public officers their main replies to the questions. To address Members' concern, Mr TAM suggested that efforts should first be made to strictly enforce the time limits for oral questions provided under rule 9A of HR. Should the problem remain unresolved, CRoP could further study the matter.

51. Mr Paul TSE pointed out that at Panel meetings, public officers usually highlighted only the key points when briefing members on the Administration's papers provided for the meetings. He did not understand why the same approach could not be adopted for public officers' replies to oral questions at Council meetings.

52. Mr Michael TIEN suggested that the rule governing the time limits for oral questions be amended to the effect that the Administration's replies to the questions were not counted towards the total time limit for an oral question. Mr TIEN also shared the view that the President should strictly enforce the time limits for oral questions.

53. The Chairman concluded that he would raise the matter with the President. He would also relay to CS Members' concern about the lengthy replies given by public officers to oral questions at Council meetings. Where necessary, the matter could be referred to CRoP for further study.

**VIII. Proposal of Hon WONG Kwok-hing to review the arrangements relating to briefings on the Chief Executive's Policy Address for Panels by Bureau Directors**

*(Letter dated 28 January 2013 from Hon WONG Kwok-hing (LC Paper No. CB(2) 596/12-13(01)))*

54. Mr WONG Kwok-hing considered that with the increase in the number of Members in the Fifth LegCo, the duration of briefings on CE's Policy Address for Panels by Bureau Directors should be extended. Citing the briefing for the Panel on Housing on the 2013 Policy Address chaired by him as an example, Mr WONG said that although each Member's speaking time was limited to only three minutes, the one-hour briefing was not sufficient as there was a long queue of Members waiting to speak. In Mr WONG's view, three minutes was hardly sufficient for a Member to ask questions and the Administration to respond and a time limit of four to five minutes would be more appropriate. He hoped that the duration of future briefings on Policy Address could be suitably extended, say to one and a half hours, so as to allow sufficient time for Members to ask questions and the Administration to respond.

55. Mr SIN Chung-kai expressed support for extending the duration of briefings on Policy Address. He was of the view that it was more reasonable for each Member to have five minutes for the Member's questions and the Administration's response. Given the increase in the number of Members in the current LegCo term and the large membership size of some Panels, he considered it more appropriate to extend the duration of these briefings to two hours, which was the normal duration of a committee meeting.

56. Dr KWOK Ka-ki agreed that the duration of briefings on Policy Address should be extended to at least two hours. Dr KWOK also shared the view that three to four minutes would not be sufficient for the Administration to respond fully to Members' questions and elaborate on the policy initiatives within their purview. Dr KWOK further suggested that for bureaux with a wide policy portfolio, their major policy areas should be separately dealt with at the briefings so as to allow more time for Members to ask questions.

57. Mr CHAN Chi-chuen shared the view that three minutes was insufficient for a Member to ask questions and the Administration to respond. Mr CHAN further questioned the sincerity of some Bureau Directors in answering Members' questions at the briefings, saying that they merely read straight from the Administration's papers provided to the Panels or just picked the easiest question to answer. Mr CHAN considered it important for Members to discuss ways to tackle such problem as well.

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58. In response to Ms Emily LAU, the Chairman clarified that while the subject under discussion was briefings on Policy Address, the issues raised might also apply to special Finance Committee ("FC") meetings on the Budget.

59. Ms Emily LAU said that should Members agree to extend the duration of briefings on Policy Address and special FC meetings on the Budget, these meetings, in particular the latter which already spanned one week under the existing arrangement, would become much longer and Members should ensure that they would be available to attend these extended meetings.

60. Mr James TIEN said that Members belonging to the Liberal Party supported extending the duration of briefings on Policy Address to two hours. He considered it more appropriate to allow each Member four to five minutes to ask questions.

61. Mr IP Kwok-him said that should the duration of briefings on Policy Address be increased from one hour to two hours, the meeting time would in effect be doubled. While he did not object to extending the duration of the briefings, Members should consider whether they would have sufficient time to attend them. Mr IP further said that as all Members were invited to attend the briefings on Policy Address, it was the normal practice to avoid a clash of the briefings. Hence, consideration should also be given to whether arrangement could be made for the briefings for all the 18 Panels to be held during the short interval between the delivery of the Policy Address and the debate on the Motion of Thanks if the duration of the briefings were to be extended. Mr IP added that Panel Chairmen might, if necessary, extend the duration of the briefings to allow more time for discussion.

62. Mr Jeffrey LAM said that he agreed with Mr IP Kwok-him. Mr LAM further said that individual Panels could decide on the duration of their briefings in a flexible manner. For instance, the briefing for the Panel on Economic Development chaired by him had lasted for more than one hour. He also considered it important to avoid a clash of the briefings for different Panels to facilitate Members' attendance.

63. Mr KWOK Wai-keung said that he was supportive of extending the duration of briefings on Policy Address, as the briefings were the channels through which Members could ask questions and obtain more information about the details of the policy initiatives outlined in the Policy Address. He considered that the briefings should not clash with other committee meetings and suggested that a few days be reserved for conducting the briefings.

64. Mr WONG Kwok-hing said that he gathered from the discussion that most Members supported his proposal that the duration of briefings on Policy Address be suitably extended. He further said that during the briefing for the Panel on Housing, he had exercised his power as Panel Chairman to extend the duration of the briefing for 15 minutes. However, there was still insufficient time for all Members who had indicated intention to speak to do so.

65. The Chairman concluded that he would convey Members' views to CS. Furthermore, as he had mentioned earlier at the meeting, Members might also express their views to CS at the next special HC meeting.

**IX. Proposal of Dr Hon Kenneth CHAN to move a motion for adjournment under Rule 16(4) of the Rules of Procedure at the Council meeting of 20 February 2013 for the purpose of debating the following issue: the supply and demand of infant formula in Hong Kong**

*(Letter dated 29 January 2013 from Dr Hon Kenneth CHAN (LC Paper No. CB(2) 596/12-13(02)))*

66. Dr Kenneth CHAN said that his proposal was to seek HC's support for him to move a motion for adjournment under RoP 16(4) at the Council meeting of 20 February 2013 concerning the supply and demand of infant formula in Hong Kong, a matter which had aroused wide public concern. The Administration had announced a series of measures to stabilize the supply of infant formula, including proposed amendments to the Import and Export (General) Regulations (Cap. 60, sub. leg. A) to be submitted to the Executive Council by the end of February 2013. He considered it an appropriate time to hold an adjournment debate on the matter at the Council meeting of 20 February 2013 which would provide an opportunity for Members of different political parties and groupings to express their views thereon. Dr CHAN further said that should HC support his proposal, apart from the Secretary for Food and Health ("SFH"), public officers responsible for the proposed legislative amendments including the Secretary for Commerce and Economic Development ("SCED") and representatives of the Customs and Excise Department should also attend the adjournment debate.

67. Mr Vincent FANG noted that Dr Kenneth CHAN wrote to the Chairman of HC on his proposal on 29 January 2013, before the Administration's announcement on 1 February 2013 of the measure to limit each person departing from Hong Kong to bringing not more than



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two cans of infant formula. While he did not subscribe to the measure, he noted that the intense scrambling for infant formula had quieted down after the announcement of the measure. Mr FANG further said that subsequently, the Panel on Food Safety and Environmental Hygiene ("the FSEH Panel") held a special meeting on 4 February 2013 to receive views from suppliers and retailers of infant formula and discuss the matter with SFH and other relevant Government officials. Given that the Panel had discussed the matter at length with the Administration at the special meeting, Mr FANG did not see the need to hold an adjournment debate on it.

68. Mr IP Kwok-him considered that adjournment debates should be for the purpose of discussing matters of urgent public importance. As the Administration had already announced measures to tackle the matter and the Panel had also held a special meeting on 4 February 2013, which all Members had been invited to attend, to follow up the matter, Mr IP did not see any urgency in holding the proposed adjournment debate at the Council meeting of 20 February 2013. In Mr IP's view, the FSEH Panel was a more appropriate forum for in-depth discussion of the matter than an adjournment debate. Mr IP added that Members who wished to debate on the matter at a Council meeting could do so by way of making an application for a motion debate slot.

69. Ms Claudia MO said that at the special meeting of the FSEH Panel which she had attended, she was shocked to learn from a representative of the drug store trade that some suppliers had been bundling the sale of popular formula products for infants with the not-so-popular ones for young children. For fear that they would be left with unsold stock of the less popular formula products, drug stores preferred buying less infant formula products from the suppliers concerned, leading to shortage of supply. Ms MO stressed that it was incumbent upon the relevant Government officials including SCED to look into the matter.

70. The Chairman remarked that while Members could express their views on the matter during an adjournment debate, the Panel was a more appropriate forum for Members to follow up the relevant issues thoroughly with the Administration.

71. Mr Gary FAN expressed support for Dr Kenneth CHAN's proposal. Mr FAN said that while parallel trading activities of infant formula had apparently diminished after the Administration's announcement of the proposed legislative amendments to restrict export of infant formula, there was a view that parallel trading activities had reduced only because it was Chinese New Year and such activities would

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increase again after the Chinese New Year holidays. Hence, it would be necessary to continue to monitor the situation after the Chinese New Year. Mr FAN further said that in response to the request of infant formula suppliers, the Administration was consulting the public on the proposed legislative amendments and the consultation period would end on 18 February 2013. In the light of the above considerations, Mr FAN considered it necessary to hold an adjournment debate on the matter at the Council meeting of 20 February 2013.

72. Mr WONG Yuk-man expressed support for Dr Kenneth CHAN's proposal. He stressed that it was LegCo's responsibility to discuss issues of public concern, and the proposed adjournment debate would provide an opportunity for Members to express their views on the matter. After the proposed adjournment debate was held, Members might continue to follow up the progress of the Administration's measures through the FSEH Panel.

73. Mr Paul TSE said that there were always many issues of public concern. In his view, while it was not provided explicitly in RoP 16(4) that there should be urgency in the matter to be discussed at an adjournment debate, it was the normal practice for Members to consider the urgency for discussing the matter, given that a request for holding an adjournment debate was in effect jumping the queue for debate slots and involved the holding of an additional debate initiated by Members. Furthermore, an adjournment debate should be held only when no alternative platform was available for Members to discuss the matter concerned. However, in the present case, the FSEH Panel had already held a special meeting to discuss the matter and Members would also have the opportunity to scrutinize the relevant legislative amendments when they were introduced into the Council. Having regard to the foregoing considerations, Mr TSE said that he was inclined not to support Dr Kenneth CHAN's proposal.

74. Mr Jeffrey LAM said that Members belonging to the Business and Professionals Alliance for Hong Kong did not support Dr Kenneth CHAN's proposal, as the matter had already been thoroughly discussed by the relevant Panel at its special meeting on 4 February 2013. He stressed that the Panel was the appropriate forum for Members to follow up the matter.

75. Mrs Regina IP said that while she agreed that it was necessary for Members to continue to follow up the matter with the Administration, she did not consider that the proposed adjournment debate was an appropriate forum for Members to do so, given that the duration of an adjournment debate was only one and a half hours and the

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Administration would not have the opportunity to respond to Members' questions one by one. In her view, Members should follow up the matter through the FSEH Panel.

76. Dr Helena WONG said that although the short-term measures announced by the Administration appeared to have borne some fruits, various other issues, such as the bundled sales of formula products, the assessment of demand for infant formula in Hong Kong and the Mainland, and the criteria for issuing licence for export of infant formula from Hong Kong, were raised at the special meeting of the FSEH Panel on 4 February 2013. She said that Members belonging to the Democratic Party supported Dr Kenneth CHAN's proposal as the proposed adjournment debate would provide an opportunity for Members to debate on these issues in the Council.

77. Mr Tommy CHEUNG said that Members belonging to the Liberal Party did not support Dr Kenneth CHAN's proposal, as there was no urgency in debating on the matter at the Council meeting of 20 February 2013. He pointed out that the problem of shortage of infant formula before Chinese New Year had already existed for two to three years. Mr CHEUNG further said that Members who wished to debate on the matter at a Council meeting might make an application for the allocation of a debate slot. He added that a motion debate would allow Members more time to debate on the matter than an adjournment debate.

78. Ms Claudia MO said that as the shortage in infant formula in Hong Kong had become international news, there was urgency in discussing the matter at a Council meeting. Ms MO further pointed out that Members did not have sufficient time to raise questions at the special meeting of the FSEH Panel and many issues had yet to be resolved. She reiterated her support for holding the proposed adjournment debate in the Council, which would enable the public to gain a fuller understanding of the matter.

79. Dr KWOK Ka-ki said that given the great public concern about the matter, he supported Dr Kenneth CHAN's proposal to enable timely discussion of the matter by LegCo.

80. Dr Kenneth CHAN stressed that he had raised the proposal not because the matter was of interest to him and he wished to use RoP 16(4) to jump the queue for debate slots. Rather, his proposal was made having regard to the wide public concerns about the impact of the unstable supply of infant formula on infants and their parents, as well as the adequacy of the measures put forward by the Administration to deal with problems such as parallel trading and bundled sales of infant

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formula. Dr CHAN further said that at the special meeting of the FSEH Panel on 4 February 2013, there was insufficient time for Members to raise and follow up their questions. While the FSEH Panel would certainly continue to follow up the matter, he considered that it warranted discussion at a Council meeting.

81. As there were divided views among Members, the Chairman put to vote the proposal of Dr Kenneth CHAN to move a motion for adjournment under RoP 16(4) at the Council meeting of 20 February 2013 for the purpose of debating the supply and demand of infant formula in Hong Kong. The result was 18 Members voted for and 28 Members voted against the proposal and two Members abstained from voting. The Chairman declared that the proposal was not supported.

**X. Proposal of Hon Cyd HO to appoint a select committee to inquire into issues relating to the unauthorized building works at the Chief Executive's properties and whether he had given any improper undertaking when he stood for the Chief Executive Election; and to authorize the select committee to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Letter dated 5 February 2013 from Hon Cyd HO (LC Paper No. CB(2) 608/12-13(01)))**

82. The Chairman reminded Members that the President had already given approval for Ms Cyd HO to move a motion at the Council meeting of 20 February 2013 to seek the Council's authorization for the appointment of the proposed select committee.

83. At the invitation of the Chairman, Ms Cyd HO said that she proposed the appointment of a select committee to conduct an inquiry in light of the serious allegations made by Mr LEW Mon-hung against CE, which included CE having made a false statement in claiming that three professionals had provided advice on the unauthorized building works ("UBWs") at his properties on the Peak and CE having given improper undertaking in exchange for Mr LEW's support when he stood for the Chief Executive Election. Given the gravity of these allegations, she considered it necessary for LegCo to conduct an inquiry to find out the truth. She further said that even CE himself considered the allegations serious. Otherwise, he would not have instructed his lawyer to issue a letter to the Hong Kong Economic Journal ("HKEJ") over a commentary by Mr LIAN Yi-zheng which had quoted comments from Mr LEW. The appointment of the proposed select committee would also provide CE an opportunity to clarify the matter to the public. Ms HO added that should HC support her proposal, the motion for the appointment of the proposed select committee would be moved by the Chairman of HC instead. She appealed to Members to support her proposal.

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84. As it was already 3:44 pm, the Chairman directed that the HC meeting be suspended and resumed immediately after the FC meeting at around 5:45 pm to deal with the unfinished business on the agenda.

*(The meeting was suspended at 3:44 pm and resumed at 6:03 pm.)*

85. Mr WONG Yuk-man strongly criticized CE for instructing his lawyer to write to HKEJ over the commentary written by Mr LIAN Yi-zheng alleging that CE had ties to triad elements. In Mr WONG's view, CE was abusing his power to threaten the press.

86. Ms Claudia MO also criticized CE for instructing his lawyer to issue the letter to put pressure on the author of a critical newspaper commentary. She said that the appointment of a select committee to conduct an inquiry into the matter would provide an opportunity for CE to explain to the public why he considered Mr LIAN Yi-zheng's commentary defamatory. Ms MO further said that as Mr LIAN's commentary was based on an interview article on Mr LEW Mon-hung published by the iSun Affairs Magazine, she could not understand why CE instructed his lawyer to only write to HKEJ and not the iSun Affairs Magazine.

87. Mr LEE Cheuk-yan said that instead of instructing his lawyer to write to HKEJ, CE should have given a full account to the public on the serious allegations made by Mr LEW Mon-hung against him. He supported the proposed inquiry by LegCo into the matter as it would allow CE an opportunity to clarify whether or not the allegations made by Mr LEW Mon-hung were true and enable the public to find out the truth. He stressed that it was high time that LegCo conducted an inquiry to clear the doubts about CE's integrity.

88. Dr Kenneth CHAN said that while the Panel on Development had followed up on UBWs at CE's properties on the Peak and the Director of Buildings had attended the Panel meeting to answer Members' questions, many doubts remained uncleared. Subsequently, he had also written to the Buildings Department ("BD") requesting information on the correspondences between CE and the Department concerning UBWs at CE's properties. However, the information provided by BD had been excised on the ground of privacy and could not help shed light on the truth of the matter. Given the seriousness of the allegations made by Mr LEW Mon-hung, as evidenced by CE instructing his lawyer to write to HKEJ over Mr LIAN Yi-zheng's article, Members belonging to the Civic Party supported Ms Cyd HO's proposal to appoint a select committee to inquire into the matter in order to find out the truth for the public.

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89. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong did not support the motion to be moved by Ms Cyd HO at the Council meeting of 20 February 2013 to appoint a select committee and invoke the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") to inquire into the matter. Neither did they support Ms HO's proposal for the Chairman of HC to move the motion in the Council on behalf of Members. He considered that Members could express their views on the matter at that Council meeting and it was a waste of time to discuss Ms HO's proposal at this HC meeting.

90. Mr WONG Kwok-kin said that Members belonging to the Hong Kong Federation of Trade Unions objected to the proposal to appoint a select committee to inquire into the matter.

91. Mr Dennis KWOK said that the allegations made against CE were very serious and warranted the conduct of an inquiry by LegCo. He stressed that there was no excuse for not invoking the powers under the P&P Ordinance to inquire into the matter.

92. Mr SIN Chung-kai said that Members belonging to the Democratic Party supported the proposal for the Chairman of HC to move on behalf of Members a motion for the appointment of a select committee to inquire into the matter. He considered that the emergence of new evidence justified the need for invoking the powers under the P&P Ordinance to conduct an inquiry.

93. Mr LEUNG Yiu-chung said that a motion moved by the Chairman of HC in the Council for the appointment of a select committee to inquire into the matter carried a different meaning from one moved by Ms Cyd HO in her individual capacity, as HC's support would reflect the collective stance of Members on the matter. He pointed out that Ms HO had given notice to move the motion in her individual capacity at the Council meeting of 20 February 2013 because she anticipated that her proposal would unlikely be supported by HC. He expressed support for Ms Cyd HO's proposal and appealed to Members to consider the matter seriously given the gravity of the allegations involved.

94. Dr Fernando CHEUNG said that the allegations made by Mr LEW Mon-hung involved the making of a false statement and election bribery by CE. The gravity of the allegations undoubtedly warranted invocation of the powers under the P&P Ordinance to find out the truth for the public. Furthermore, Mr LEW had indicated to the media that he was willing to attend before the Council to give evidence should a select committee be appointed to inquire into the matter. Dr CHEUNG considered that LegCo would have failed to perform its duties if it did not inquire into matter.

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95. Mr WU Chi-wai shared the view that HC's support for Ms Cyd HO's proposal would reflect the collective stance of Members on the matter. He stressed that the concern raised in Mr LIAN Yi-zheng's commentary about CE's suspected links to triad elements was a very serious matter. In his view, it would be dereliction of duty on the part of Members if an inquiry was not conducted into the matter to find out the truth. He reiterated that Members belonging to the Democratic Party were supportive of the proposed appointment of a select committee to conduct an inquiry, which would provide CE and Mr LEW Mon-hung with an opportunity to clarify the matter to the public.

96. Mr LEUNG Kwok-hung said that as Mr LIAN Yi-zheng's commentary was based on comments made by Mr LEW Mon-hung in an interview with the iSun Affairs Magazine, he found it odd that CE only took legal action against HKEJ but not Mr LEW or the iSun Affairs Magazine. The fact that CE did not take any legal action against Mr LEW made him think that the allegations made by Mr LEW against CE might be true. As CE was alleged to have links with triad elements, Mr LEUNG considered it necessary for LegCo to invoke the powers under the P&P Ordinance to conduct an inquiry to clear the doubts.

97. Mr Albert CHAN said that the series of incidents involving CE had caused grave public concern about the governance of Hong Kong and aroused negative sentiments of the civil service towards CE. In view of the seriousness of the allegations made by Mr LEW Mon-hung and their impact on the governance of Hong Kong, Mr CHAN considered it necessary to invoke the powers under the P&P Ordinance to inquire into the matter.

98. Mr Dennis KWOK pointed out that section 14(1) of the P&P Ordinance provided that every person lawfully ordered to attend to give evidence or to produce any paper, book, record or document before the Council should, subject to section 16, be entitled to the same right or privilege as before a court of law. As CE had instructed his lawyer to write to HKEJ for publishing a commentary which he claimed to be defamatory, Mr KWOK considered it important that parties giving evidence on the matter should be afforded the protection under the P&P Ordinance.

99. Ms Cyd HO noted that in his lawyer's letter to HKEJ, CE had requested the latter to retract Mr LIAN Yi-zheng's article and not to make such commentaries again. In her view, CE was abusing his power to silence criticisms against him. She stressed that the proposed invocation of the powers under the P&P Ordinance to inquire into the matter could provide protection to all parties concerned in giving

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evidence on the matter. While she would move in her individual capacity a motion for the appointment of a select committee at the Council meeting of 20 February 2013, she hoped to obtain HC's support for the moving of the motion as it would reflect HC's stance on the matter. Stressing the need to find out the truth, she appealed to Members to support her proposal.

100. As there were divided views among Members, the Chairman put to vote the proposal of Ms Cyd HO to appoint a select committee to inquire into issues relating to UBWs at CE's properties and whether he had given any improper undertaking when he stood for the Chief Executive Election; and to authorize the select committee to exercise the powers under section 9(1) of the P&P Ordinance. Ms Cyd HO requested a division.

The following Members voted in favour of the proposal:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Dr Joseph LEE, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Mr IP Kin-yuen.

(18 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, Mr NG Leung-sing, Mr Steven HO, 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 POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE.

(30 Members)

101. The Chairman declared that 18 Members voted for and 30 Members voted against the proposal and no Member abstained from voting. The Chairman declared that Ms Cyd HO's proposal was negated.



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**XI. Any other business**

102. There being no other business, the meeting ended at 6:36 pm.

Council Business Division 2  
Legislative Council Secretariat  
20 February 2013