

立法會
Legislative Council

LC Paper No. CB(2)1042/15-16

Ref : CB2/H/5/15

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, 26 February 2016**

Members present:

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)
Hon MA Fung-kwok, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
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, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
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, SBS, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, SBS
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, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Gary FAN Kwok-wai
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
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, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, SBS, 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, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS

Members absent:

Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon CHUNG Kwok-pan

Clerk in attendance :

Miss Flora TAI

Clerk to the House Committee

Staff in attendance :

Mr Kenneth CHEN, SBS	Secretary General
Ms Connie FUNG	Legal Adviser
Miss Odelia LEUNG	Deputy Secretary General
Ms Anita SIT	Assistant Secretary General 1
Ms Dora WAI	Assistant Secretary General 3
Mr Matthew LOO	Assistant Secretary General 4
Mr YICK Wing-kin	Acting Senior Assistant Legal Adviser 1
Mr Stephen LAM	Senior Assistant Legal Adviser 2
Mr Kelvin LEE	Senior Assistant Legal Adviser 3
Ms Amy YU	Principal Council Secretary 1
Ms Hallie CHAN	Head (Public Information)
Ms Alice LEUNG	Chief Council Secretary (2)6
Miss Joyce CHAN	Assistant Legal Adviser 1
Miss Rachel DAI	Assistant Legal Adviser 2
Ms Vanessa CHENG	Assistant Legal Adviser 5
Ms Clara TAM	Assistant Legal Adviser 9
Miss Karen LAI	Senior Council Secretary (2)6
Ms Jasmine TAM	Senior Council Secretary (2)8
Mr Richard WONG	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

Action

I. Confirmation of the minutes of the 15th meeting held on 5 February 2016
(LC Paper No. CB(2)936/15-16)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on his meeting with the Chief Secretary for Administration

Updated Legislative Programme 2015-2016

2. The Chairman said that an updated list of bills which the Administration planned to introduce into the Legislative Council ("LegCo") in the remaining months of the current legislative session was issued to Members on 5 February 2016. The Chief Secretary for Administration ("CS") advised that in addition to the four Bills set out in the updated list, bills for giving effect to the measures proposed in the 2016-2017 Budget would also be introduced into LegCo for scrutiny in the coming few months.

III. Business arising from previous Council meetings

(a) Legal Service Division report on subsidiary legislation gazetted on 5 February 2016 and tabled in Council on 17 February 2016 *(LC Paper No. LS33/15-16)*

3. At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the report prepared by the Legal Service Division ("LSD") on the nine items of subsidiary legislation (i.e. L.N. 25 to L.N. 33) which were gazetted on 5 February 2016 and tabled in Council on 17 February 2016.

4. Mr Christopher CHEUNG considered it necessary to form a subcommittee to study the six items of subsidiary legislation made under the Securities and Futures Ordinance (i.e. L.N. 27 to L.N. 32) in detail. Members agreed. Mr Christopher CHEUNG and Mr SIN Chung-kai agreed to join the proposed subcommittee.

5. Members did not raise any question on the remaining three items of subsidiary legislation (i.e. L.N. 25, L.N. 26 and L.N.33).

6. Members noted that the deadline for amending the above nine items of subsidiary legislation would be the Council meeting of 16 March 2016, or that of 13 April 2016 if extended by a resolution of the Council.

Action

(b) Legal Service Division report on subsidiary legislation gazetted on 19 February 2016 and tabled in Council on 24 February 2016

(LC Paper No. LS36/15-16)

7. At the invitation of the Chairman, LA briefed Members on the LSD report on the two items of subsidiary legislation (i.e. L.N. 34 and L.N. 35) which were gazetted on 19 February 2016 and tabled in Council on 24 February 2016.

8. Ms Cyd HO considered it necessary to form a subcommittee to study the International Organizations (Privileges and Immunities) (ASEAN+3 Macroeconomic Research Office) Order (L.N. 35) in detail. Members agreed. Ms Cyd HO agreed to join the proposed subcommittee.

9. Members did not raise any question on the Maximum Amount of Election Expenses (Chief Executive Election) (Amendment) Regulation 2016 (L.N. 34).

10. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation would be the Council meeting of 16 March 2016, or that of 13 April 2016 if extended by a resolution of the Council.

IV. Legal Service Division report on subsidiary legislation gazetted on 24 February 2016

(LC Paper No. LS39/15-16)

11. At the invitation of the Chairman, LA briefed Members on the LSD report on the two items of subsidiary legislation (i.e. L.N. 36 and L.N. 37) which were gazetted on 24 February 2016.

12. Dr Fernando CHEUNG considered it necessary to form a subcommittee to study the Rating (Exemption) Order 2016 (L.N. 36) in detail. Members agreed. Dr Fernando CHEUNG and Mr SIN Chung-kai agreed to join the proposed subcommittee.

13. Members did not raise any question on the Revenue (Reduction of Business Registration Fees) Order 2016 (L.N. 37).

14. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation would be the Council meeting of 16 March 2016, or that of 20 April 2016 if extended by a resolution of the Council.

V. Business for the Council meeting of 2 March 2016

Meeting arrangement for the Council meeting of 2 March 2016

15. The Chairman informed Members that the meeting would start at 11:00 am and be suspended at around 8:00 pm on Wednesday, 2 March 2016. The meeting would resume at 9:00 am and be suspended at around 8:00 pm on Thursday, 3 March 2016. As for Friday, 4 March 2016, the meeting would resume at 9:00 am and be adjourned at around 1:00 pm.

Committee stage and third reading of the Copyright (Amendment) Bill 2014

16. Ms Cyd HO said that the Secretary for Commerce and Economic Development ("SCED") stated publicly on the day before the meeting that the Administration would not pursue further the Copyright (Amendment) Bill 2014 ("the Copyright Bill") if it was not passed by LegCo at the Council meeting of 2 March 2016 ("SCED's remarks"). In her view, it was impossible to complete the Committee stage debate on the Copyright Bill and to proceed to third reading at that Council meeting. Ms HO considered that the Administration should have communicated with Members on how and when it would propose not pursue further the Copyright Bill.

17. The Chairman said that since the Copyright Bill was at the Committee stage in which the proposed amendments to it were being debated, the Administration could not withdraw the Copyright Bill at this stage. The Administration could consider moving a motion under Rule 40(4) of the Rules of Procedure ("RoP") to adjourn further proceedings of the committee. If the motion was agreed to, the Council would resume to deal with other business on the Agenda. Alternatively, the Administration could propose the reordering of Government bills on the Agenda of the Council meeting for the President's consideration. The Chairman added that the Administration so far had not indicated how it would proceed with its plan of not pursuing further the Copyright Bill.

18. Mr CHAN Chi-chuen said that while the motion on adjournment of the further proceedings of the Committee of the whole Council on the Copyright Bill was negatived at the Council meeting of 27 January 2016, he recalled that the President had advised that subject to any change in circumstances, he might consider allowing Members to move another motion to adjourn the proceedings of the Committee of the whole Council on the Copyright Bill. He indicated that he intended to move such a motion at the Council meeting of 2 March 2016. Mr CHAN requested the Chairman to enquire with the President whether he would be allowed to do so at the next Council meeting of 2 March 2016. He added that if

Action

Members could reach a consensus at the meeting to support his proposal to do so, it would save time debating the proposed motion at the next Council meeting and more time could be allowed for deliberations on the other items of the Agenda. The Chairman agreed to relay Mr CHAN's enquiry to the President.

19. Ms Emily LAU said that the Administration had the responsibility to inform Members of its plan of not pursuing further the Copyright Bill. Members should be informed in advance if the Administration intended to propose changes to the order of Government bills on the Agenda of the Council meeting, so as to allow time for Members to prepare for the meeting. She enquired if there was any requirement for the Administration to make such a request to LegCo.

20. At the invitation of the Chairman, the Secretary General ("SG") advised that there was no notice requirement for the Administration to propose changing the order of Government bills on the Agenda of a Council meeting. The Administration usually made such requests to the President in writing in the past.

21. Ms Emily LAU considered it unsatisfactory if Members were only informed of the change in the order of Government bills on the Agenda of a Council meeting at a short notice. She hoped that the Administration would advise Members what course of action it would take at the earliest opportunity.

22. Mr LEUNG Kwok-hung considered that Members should not take SCED's remarks seriously as it was a political tactic to pave the way for ending the filibuster on the proposed Hong Kong Section of Guangzhou - Shenzhen - Hong Kong Express Rail Link - construction of railway works at the Finance Committee meeting to be held the next day.

23. Ms Cyd HO said that Members needed time to prepare for the resumption of Second Reading debates on the other Bills on the Agenda of the Council meeting of 2 March 2016. She considered that the Administration should inform Members of its course of action and also at which juncture of the meeting that it would seek to adjourn the proceedings on the Copyright Bill.

24. Expressing concurrence with Mr CHAN Chi-chuen, Mr Alan LEONG said that if a consensus could be reached at the meeting, the House Committee ("HC") could recommend to the President that the motion to adjourn the proceedings of the Committee of the whole Council on the Copyright Bill could be moved at the Council meeting of 2 March 2016.

Action

25. Ms Claudia MO criticized the Administration for its failure to communicate with Members before SCED made his remarks regarding the Copyright Bill. She wondered whether it was the intention of SCED to put pressure on the President to end the filibuster on the Copyright Bill.

26. Mr LEE Cheuk-yan said that the Administration should have made it clear how it would not pursue further the Copyright Bill and advise Members at today's meeting. He considered it more desirable for Members themselves to move a motion to adjourn the further proceedings of the Committee of the whole Council on the Copyright Bill at the Council meeting of 2 March 2016. Mr LEE further said that he would like to propose a motion to seek Members' agreement for the Chairman of HC to move a motion under the relevant rule of RoP to adjourn the further proceedings of the Committee of the whole Council on the Copyright Bill at the Council meeting of 2 March 2016.

27. The Chairman advised that as Mr LEE Cheuk-yan's proposal was not on the agenda and it would not be fair to those Members not attending the meeting should Mr LEE's proposal be dealt with at the meeting, he could not accede to Mr LEE's request. The Chairman said that he would convey Members' views regarding the Copyright Bill to CS at their next meeting on 29 February 2016.

Matters relating to counting the quorum at the Council meeting of 24 February 2016

28. Ms Emily LAU requested that Members be briefed on the incident of the miscounting of the quorum at the Council meeting of 24 February 2016 and how the Secretariat would prevent recurrence of similar incidents in future.

29. At the invitation of the Chairman, SG said that at around 4:00 pm on 24 February 2016, a Member requested a quorum call when the Council meeting was in progress. The President directed the Clerk to ring the summoning bell. After the summoning bell had rung for 15 minutes, the counting of the Clerk showed that a quorum was not present in the Chamber. The President therefore adjourned the Council in accordance with RoP. After the Council was adjourned, the Secretariat reviewed the video recording and confirmed that there were a total of 35 Members in the Chamber when the summoning bell had rung for 15 minutes, and that a quorum was present then. The Secretariat reported the findings to the President, who had already explained the incident at a media standup on that day. SG further said that, on behalf of the Secretariat, he had issued a circular to all Members to express his apology

Action

for the miscounting of the quorum at the Council meeting. The Secretariat had reviewed the quorum counting arrangements after the meeting and Members would be informed early next week of the enhanced arrangements to be adopted for future Council meetings.

30. Ms Emily LAU suggested that consideration be given to requesting the Members present at a Council meeting to press the "Present" button when a quorum call had been requested, which would enable the President and the Clerk to know instantly whether or not a quorum was present at the meeting. The Chairman said that Members could convey any suggestions or views they might have on the matter to SG on other occasions.

(a) **Tabling of papers**

Report No. 14/15-16 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments
(*LC Paper No. CB(2)938/15-16*)

31. The Chairman said that the Report covered four items of subsidiary legislation and the period for amending these items would expire at the Council meeting of 2 March 2016. No Members had indicated intention to speak on these items of subsidiary legislation.

(b) **Questions**

(*LC Paper No. CB(3)408/15-16*)

32. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the meeting.

(c) **Bills - First Reading and moving of Second Reading**

(i) **Employment (Amendment) Bill 2016**

(ii) **The Hong Kong Institute of Education (Amendment) Bill 2016**

(iii) **Medical Registration (Amendment) Bill 2016**

33. The Chairman said that HC would consider the above three Bills at its meeting on 11 March 2016.

Action

(d) **Government motions**

Two proposed resolutions to be moved by the Secretary for Transport and Housing under section 5(3)(b) of the Public Bus Services Ordinance (Cap. 230) in relation to the following two bus companies:

- (i) **Citybus Limited; and**
- (ii) **New Lantao Bus Company (1973) Limited**
(LC Paper No. CB(3)401/15-16)

34. The Chairman said that the two proposed resolutions would be dealt with at the meeting.

(e) **Members' motions**

35. The Chairman said that Members' motions which had been scheduled for debate at previous Council meetings would stand over to the following Council meetings.

VI. Advance information on business for the Council meeting of 16 March 2016

(a) **Bills - First Reading and moving of Second Reading**

- (i) **Judiciary (Five-day Week) (Miscellaneous Amendments) Bill 2016**
- (ii) **Inland Revenue (Amendment) (No. 2) Bill 2016**

36. The Chairman said that HC would consider the above two Bills at its meeting of 18 March 2016.

(b) **Government motions**

- (i) **Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under section 7(1) of the Public Finance Ordinance (Cap. 2)**
(LC Paper No. CB(3)415/15-16)
(LC Paper No. LS38/15-16)

37. At the invitation of the Chairman, LA briefed Members on the LSD report on the above proposed resolution.

Action

38. Members did not raise any question on the above proposed resolution and had no objection to the Administration moving the proposed resolution at the Council meeting of 16 March 2016.

39. The Chairman said that he had received a letter from Ms Cyd HO requesting HC to discuss at today's meeting her proposal on behalf of 22 Members to move a motion under Rule 91 of RoP at the Council meeting of 16 March 2016 to suspend Rule 18(1) of RoP, so as to enable the Secretary for Financial Services and the Treasury ("SFST") to move the above proposed resolution. He informed Members that the President had all along respected the Administration's views regarding the order of transacting Government items on the Agenda of the Council meeting, and the Secretariat had sought the confirmation of the President on this practice. Given that the purpose of Ms HO's proposal was to change the order of Government items on the Agenda, he considered it not appropriate to discuss Ms HO's proposal at the HC meeting.

40. At the invitation of the Chairman, Ms Cyd HO said that her intention of proposing the motion to suspend Rule 18(1) of RoP was to enable the Government motions to be transacted before the Government bills on the Agenda of the Council meeting of 16 March 2016. By doing so, LegCo could deal with this year's Vote on Account resolution to be moved by SFST at that Council meeting before the proceedings on the Copyright Bill. As the Administration had indicated its intention of not pursuing further the Copyright Bill if it was not passed at the Council meeting of 2 March 2016, she agreed that there was no need to deal with her letter at today's meeting. She requested the Chairman to enquire with CS on the course of action that the Administration would take in enabling SFST to move the proposed resolution at the Council meeting of 16 March 2016.

41. The Chairman said that he would enquire with CS at the next meeting on the following Monday. He added that since a large number of bills were pending resumption of second reading debate and third reading, he believed that the Administration would need to propose to move a motion under Rule 91 of RoP to suspend Rule 18(1) of RoP with a view to changing the order of Government items to be transacted at the Council meeting of 16 March 2016. However, no notice had been received from the Administration yet.

- (ii) **Proposed resolution to be moved by the Secretary for Home Affairs under section 37 of the West Kowloon Cultural District Authority Ordinance (Cap. 601)**
(LC Paper No. CB(3)413/15-16)
(LC Paper No. LS37/15-16)

42. At the invitation of the Chairman, LA briefed Members on the LSD report on the above proposed resolution.

43. Mr WU Chi-wai considered it necessary to form a subcommittee to study the proposed resolution in detail. Members agreed. Ms Cyd HO, Mr Alan LEONG and Mr WU Chi-wai agreed to join the subcommittee.

44. The Chairman informed Members that in line with the established practice and the arrangement agreed with the Administration, the Administration would be requested to withdraw its notice for moving the proposed resolution so as to allow sufficient time for the subcommittee to scrutinize the proposed resolution.

VII. Reports of Bills Committees and subcommittees

- (a) **Report of the Bills Committee on Interception of Communications and Surveillance (Amendment) Bill 2015**
(LC Paper No. CB(2)939/15-16)

45. Mr IP Kwok-him, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Mr IP informed Members that the Administration would propose to move Committee stage amendments ("CSAs") to the Bill in response to some concerns raised by members of the Bills Committee. Mr James TO and Mr Dennis KWOK had indicated their intention respectively to propose CSAs to the Bill. Members noted that the Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 16 March 2016.

(b) **Report of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2015**
(LC Paper No. CB(1)595/15-16)

46. Mr TAM Yiu-chung, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Mr TAM informed Members that the Administration would propose to move CSAs to the Bill which were technical or consequential in nature to improve the clarity of the provisions of the Bill. He would, on behalf of the Bills Committee, propose three alternative sets of CSAs to the Bill which were originally suggested by Mr CHUNG Kwok-pan. Further, Mr TANG Ka-piu and Mr WONG Yuk-man had indicated their intention respectively to propose CSAs to the Bill. Members noted that the Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 16 March 2016.

47. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above two Bills would be Monday, 7 March 2016.

(c) **Report of the Subcommittee on Amendments to Three Regulations under the Electoral Affairs Commission Ordinance**
(LC Paper No. CB(2)941/15-16)

48. Mr TAM Yiu-chung, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Members noted that the Subcommittee did not object to the amendments made to the three Regulations under the Electoral Affairs Commission Ordinance (i.e. L.N. 10 to L.N. 12).

VIII. Position on Bills Committees and subcommittees
(LC Paper No. CB(2)937/15-16)

49. The Chairman said that as at 25 February 2016, there were 16 Bills Committees, seven subcommittees under HC and seven subcommittees on policy issues under Panels in action. Two subcommittees on policy issues under Panels were on the waiting list. Members noted that among the 16 Bills Committees in action, two of them needed to work beyond three months since their commencement.

Action

IX. Proposals to seek the Council's authorization for the appointment of a select committee to inquire into the clashes between the Police and the public in Mong Kok from 8 to 9 February 2016 and related matters

- (a) **Letter from Hon WONG Yuk-man**
(LC Paper No. CB(2)957/15-16(01))
- (b) **Joint letter from 22 Members**
(LC Paper No. CB(2)957/15-16(02))

50. At the invitation of the Chairman, Mr WONG Yuk-man said that he considered it very inappropriate for the Government to have hastily described the clashes between the Police and the public in Mong Kok from 8 to 9 February 2016 ("the Mong Kok incident") as a "riot" and to have strongly condemned those young people involved in the incident, as this would only stir up further discontent from them. In his view, the Government, being vested with public power, should set up an independent commission of inquiry to find out the causes leading to the incident and what could be done to prevent recurrence of similar incidents in future. Given that the Government had refused to set up an independent commission of inquiry to look into the incident, it was incumbent upon LegCo to find out the true causes for the public. He called on Members to support his proposal for LegCo to appoint a select committee and to authorize it to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") to inquire into the Mong Kok incident and related matters.

51. At the invitation of the Chairman, Ms Cyd HO said that Members belonging to the pro-democracy camp neither supported the use of violence during street demonstrations nor found institutional violence acceptable as these two kinds of violence would mutually reinforce one another and only the use of peaceful means would gain support from the majority of people. She considered that the condemnation of the young people involved in the Mong Kok incident as "rioters" by Members belonging to the pro-establishment camp would not solve the conflicts in Hong Kong and would not be helpful for finding out the true causes of the incident. Ms HO, on behalf of 22 Members, appealed to all other Members to support the proposal for LegCo to invoke the powers under the P&P Ordinance to conduct an inquiry to find out the underlying causes of the Mong Kok incident and to make recommendations on ways to prevent the recurrence of similar incidents in future. She added that in her view, the Police's failure to enforce the law in a fair and impartial manner was probably one of the underlying causes of the incident.

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

53. Mr WONG Kwok-hing said that he opposed the two proposals in question having regard to three considerations. First, it was not the right time to inquire into the riot in Mong Kok since the criminal investigations and the legal proceedings arising from the riot were underway. Second, LegCo might not be a proper platform for a fair and objective investigation into the riot as those Members who put forward the two proposals had the presumption that the riot was mainly caused by the unsatisfactory performance of the Government. Third, it was the behaviour of some Members such as the throwing of objects during meetings of the Council and committees that had set bad examples for young people.

54. Mrs Regina IP pointed out that the former British-Hong Kong Government commissioned an independent investigation into the Kowloon Disturbances in 1966 and published a detailed report on local administration with recommendations on how to resolve public grievances and social unrest. Mrs IP considered that the Government should follow the above precedent to appoint an independent commission of inquiry to investigate the Mong Kok incident, with focuses on three major areas: to examine the criminal responsibilities of those involved in the incident; to review the operational deployment of the Police; and to find out the causes of the incident and identify areas for improvement of the governance of the Government. As it was the responsibility of the Government to conduct the investigation, she opposed the two proposals for the appointment of a select committee to inquire into the Mong Kok incident.

55. Ms Claudia MO expressed strong disappointment with the way the Government had handled the incident. She pointed out that the occurrence of large-scale street protests was very often related to the poor governance of the Government. As the Government had refused to accede to the proposal for setting up an independent commission of inquiry to look into the Mong Kok incident, she considered it incumbent upon LegCo to appoint a select committee to conduct an inquiry into the matter.

56. Dr Helena WONG said that Members were duty bound to conduct an inquiry into the Mong Kok incident and she was in support of the proposed appointment of a select committee to inquire into the matter. She disagreed with Mr WONG Kwok-hing's view that LegCo should not conduct an inquiry into the incident while criminal investigations into the incident were underway. In her view, the proposed select committee

Action

could carry out a comprehensive investigation to examine the interwoven political and socio-economic problems and deep-rooted conflicts which might have led to the incident.

57. Mr WONG Kwok-kin said that the top priority at the moment should be bringing the rioters involved in the Mong Kok incident to justice by expeditiously proceeding with the relevant criminal investigations and prosecutions, so as to convey a clear message to the society that violent acts would not be accepted and rioters would be held responsible for their acts. In his view, rioters who used violent acts were inexcusable irrespective of whether there were any governance problems with the Government, and a tolerance attitude towards violent acts would only instigate more violent acts. He was against the proposals for the appointment of a select committee to inquire into the Mong Kok incident which, in his view, would only serve the purpose of diverting the public attention from the violent acts involved in the incident.

58. Mr WU Chi-wai said that while Members belonging to the pro-democracy camp had openly condemned violent acts involved in the Mong Kok incident, they considered that the Government should not focus solely on proceeding with the relevant criminal investigations and prosecutions without paying attention to governance-related problems which were in fact the deep-rooted causes of the incident. He considered it incumbent upon the Government to appoint an independent commission of inquiry to investigate the causes of the incident and make recommendations on ways to resolve governance-related problems, as it did for the Kowloon Disturbances in 1966. Given the Government's refusal to set up an independent commission of inquiry to look into the Mong Kok incident, he considered it necessary for LegCo to appoint a select committee to conduct a thorough inquiry into the incident.

59. Mr IP Kwok-him stressed that those rioters who used violent acts should be strongly condemned. He said that when the Panel on Security discussed "Police's handling of riots" at its special meeting on 16 February 2016, Members passed a motion to strongly condemn the rioters for their blatant defiance of the law and reckless disregard for people's life and safety but Members belonging to the pro-democracy camp did not support that motion at the meeting. Mr IP added that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong opposed the two proposals in question as full attention should be paid on bringing the rioters to justice, and the proposed appointment of a select committee would unnecessarily divert the public attention from that.

Action

60. Mr CHAN Chi-chuen considered it necessary to appoint a select committee to inquire into the Mong Kok incident. In his view, while the Police could continue to proceed with criminal investigations into the incident, the select committee could seek to find out the causes of the incident. He further said that the reason why Members belonging to the pro-democracy camp did not support the motion passed at the special meeting of the Panel on Security on 16 February 2016 was that the motion laid the blame solely on the public involved in the incident but did not condemn the Police for using excessive force at the scene.

61. Dr KWOK Ka-ki said that he supported the proposed appointment of a select committee to inquire into the Mong Kok incident. Pointing out that an independent commission of inquiry was appointed following the riots in Hong Kong in 1967, he queried why the Government did not accede to the proposal put forward by many scholars and professionals for the establishment of an independent commission of inquiry to look into the Mong Kok incident. He also doubted whether Members belonging to the pro-establishment camp were really concerned about the incident as they did not support the conduct of an independent investigation into the incident.

62. Mr James TIEN said that while he agreed that the Mong Kok incident had illustrated problems in the governance of the current Government, it was unlikely that the proposed inquiry by LegCo could be completed before the end of the term of the Fifth LegCo in July 2016. In addition to time constraints, he was also concerned that details of the Police's operations in relation to the Mong Kok incident would be disclosed during the course of work of the proposed select committee. Members belonging to the Liberal Party therefore opposed the two proposals in question.

63. Pointing out that the former British-Hong Kong Government had appointed independent commissions of inquiry to look into the disturbances in Hong Kong in the 1960s, Mr LEUNG Kwok-hung considered it unacceptable for the Government to refuse to do the same following the Mong Kok incident given that the Chief Executive ("CE") had described the incident as a "riot". He supported the proposed appointment of a select committee by LegCo to inquire into the incident, including the relationship between the incident and the governance of the Government.

64. Dr CHIANG Lai-wan considered it appropriate for the Police to conduct criminal investigations into the rioters involved in the Mong Kok incident and also a review of its operation in relation to the incident. In her view, as the relevant criminal investigations and prosecutions were

Action

underway, it was too early for LegCo to consider the proposals for appointing a select committee to inquire into the incident. She was also worried that if a select committee was appointed at this stage, the inquiry to be conducted might prejudice cases pending in the court of law. She therefore opposed the two proposals in question.

65. Mr Dennis KWOK expressed concern that a former Deputy Commissioner of the Independent Commission Against Corruption had openly expressed dissatisfaction with the decision of a magistrate to grant bail to a defendant being charged with taking part in the Mong Kok incident, which in his view had exposed deep divisions within the community. He considered that the Government should follow precedents in Hong Kong and Britain to appoint an independent commission of inquiry to look into the Mong Kok incident. Given that the Government had refused to do so, he supported the proposed appointment of a select committee to inquire into the incident.

66. Dr Fernando CHEUNG considered that any open societies should conduct a formal inquiry into an incident being officially described as a "riot", and the fact that criminal investigations into the Mong Kok incident were underway should not be used as an excuse by the Government to turn down the public's call for setting up an independent commission of inquiry to conduct a thorough investigation into the incident. He therefore supported the proposed appointment of a select committee to inquire into the incident.

67. Mr CHAN Kin-por said that he did not support the proposals to seek the Council's authorization for the appointment of a select committee to inquire into the Mong Kok incident. Pointing out that select committees previously appointed by LegCo took an average of about one and a half years to complete their work, he considered it impracticable for the proposed select committee, if appointed, to complete its work in the remainder of the term of the Fifth LegCo. In his view, without sufficient time for the conduct of an in-depth and meaningful inquiry, the proposal for appointing a select committee would merely be putting on a "political show".

68. Prof Joseph LEE expressed support for the proposed appointment of a select committee to inquire into the Mong Kok incident. He said that irrespective of how much time was left in the current term of LegCo, it was incumbent upon Members to make the right political judgment to appoint a select committee to inquire into such a major incident. In his view, the criminal investigations being conducted by the Police could not replace the work of the proposed select committee, which would include finding out the causes of the incident and possible solutions to the deep-rooted social problems.

69. Mr Christopher CHUNG said that he opposed the proposals in question which, in his view, were raised by Members from the opposition camp in a bid to divert the attention of the community, affect the criminal investigations into the Mong Kok incident, prejudice the Court's adjudication of the relevant cases and pervert the course of justice. Referring to the Kowloon Disturbances in 1966, Mr CHUNG pointed out that the former British-Hong Kong Government appointed a commission of inquiry to look into the Disturbances only after the relevant suspects had been arrested and court rulings made. He added that the appointment of a commission/committee to inquire into any disturbance might not necessarily find out the real causes of the incident, as the decision to conduct such an inquiry often involved political considerations.

70. Mr LEUNG Yiu-chung said that while he agreed that it was necessary to continue to safeguard judicial independence which had all along been a core value of Hong Kong and upheld by the Hong Kong Judiciary, he did not consider that the proposed inquiry into the Mong Kok incident would prejudice the Court's adjudication of the relevant cases. He stressed that the Government should identify the underlying causes of the Mong Kok incident and find ways to allay social discontent and resolve social conflicts, instead of merely condemning those members of the public involved. In light of the above considerations, he considered it necessary for LegCo to face and help resolve the social problems through conducting an inquiry to find out the causes of the Mong Kok incident.

71. Mr Albert HO said that while he appreciated that some people saw a need to condemn those participants of the Mong Kok incident who had committed criminal offences, it should be noted that the incident had revealed many deep-rooted problems in Hong Kong which needed to be addressed. He considered it absurd for some Members to argue that the proposed inquiry into the Mong Kok incident would prejudice the relevant criminal investigations being conducted by the Police and the Court's adjudication of the relevant cases, as there were past cases in which LegCo conducted inquiries into matters while criminal investigations and legal proceedings arising from the matters were underway. Mr HO added that while it would be more desirable for the Government to set up an independent commission of inquiry to look into the Mong Kok incident, it was unfortunate that it had refused to do so and had only undertaken to enhance the arms and equipment for police officers and improve the planning of police operations.

72. Dr Kenneth CHAN criticized that Members who were also Executive Council Members could have advised the Government to set up an independent commission of inquiry to look into the Mong Kok incident, rather than paying lip service. He stressed that LegCo was vested with the constitutional duty to monitor the work of the Government. Given that the Government had refused to accede to the proposal of some scholars and professionals for the establishment of an independent committee to investigate the Mong Kok incident, he considered it necessary and reasonable for LegCo to conduct a comprehensive inquiry into the matter.

73. Mr Alan LEONG pointed out that over the years, independent commissions of inquiry headed by judges had been established to investigate various major incidents in Hong Kong which were of wide public concern. While it was generally considered that the conduct of such inquiries would enable the community to understand the causes of the incidents, CE had refused to set up a commission of inquiry to look into the Mong Kok incident on the grounds that there were various channels nowadays for members of the public to express their opinions on social problems and government administration. Mr LEONG stressed that should this be the case, it would be even more necessary for the Government to investigate the causes of the Mong Kok incident. Furthermore, given that the Government had described the Mong Kok incident as a "riot", which in its view should be more serious than the disturbances in the 1960s, he saw no reason why the Government should not establish a commission of inquiry to look into the incident.

74. Mr LEE Cheuk-yan said that he opposed any violent acts and hoped that the community would not resort to violence to express their views or fight for their cause. He criticized Members belonging to the pro-establishment camp for assisting the Communist Party in suppressing the development of a democratic political system in Hong Kong which, in his view, was the solution to the current conflicts in society. He also considered it unacceptable for CE to merely condemn the Mong Kok incident as a riot and refuse to address the strong public demand for the establishment of an independent commission of inquiry to look into the matter. Mr LEE added that in order to protect and support Hong Kong, all Members should support the conduct of the proposed inquiry by LegCo.

75. Mr Paul TSE stressed that LegCo should exercise its powers under the P&P Ordinance to conduct inquiries only when the subjects of the inquiries were of public importance and involved alleged dereliction of duty on the part of the Government or public bodies. Mr TSE further said that as opposed to the scope of the inquiry conducted by the Commission on Inquiry into the Kowloon Disturbances in 1966 which was narrow and clear, the scope of the proposed inquiry as set out in the two proposals in question was too wide and lacking focus on the subjects of the investigation. Given the time constraints and the lack of focus of the proposed inquiry, he was worried that it would only become a "political show" should LegCo exercise its powers under the P&P Ordinance to conduct the inquiry. He therefore would not support the two proposals in question.

76. Referring to the proposal put forward by 22 Members belonging to the pro-democracy camp including Ms Cyd HO, Mr KWOK Wai-keung said that while these Members had expressed disapproval of the violent acts in the Mong Kok incident, they had also remarked that the clashes between the Police and the public mainly arose from the maladministration of the Government and the adoption of a peaceful and rational approach to express views to the Government was no longer effective. He considered that such remarks were tantamount to encouraging the public to use violence to fight for their cause. In his view, the proposed inquiry which sought to shift the focus to the performance of the Government and the operation of the Police in the Mong Kok incident was ill-intentioned and would not be able to come to a fair and impartial conclusion.

77. Ms Cyd HO expressed dissatisfaction that Mr KWOK Wai-keung had imputed improper motives to another Member. In response to the Chairman, Mr KWOK said that he would withdraw his reference to Ms Cyd HO in his comments on the proposal put forward by 22 Members.

78. Ms Emily LAU said that the Mong Kok incident was indeed a matter of public importance and had drawn attention both locally and internationally. Having regard to the gravity of the incident, she agreed with the view that the Government should set up an independent commission of inquiry headed by a judge to inquire into the causes and advise on ways to alleviate the mounting public grievances. Given that the Government had refused to accede to the proposal put forward by some scholars and professionals for setting up an independent commission of inquiry to look into the incident, she considered that LegCo was duty bound to appoint a select committee to inquire into the matter.

Action

79. Mr Tony TSE said that he did not consider it necessary to appoint a select committee to inquire into the Mong Kok incident. He pointed out that the community was in support of the Police in maintaining law and order during the incident and was expecting the Court to make a fair decision against those rioters involved in the incident for their violent acts. As regards the two proposals in question, he queried whether it was a tactic to divert the public attention from the violent acts and help exculpate those rioters. He also expressed concern that some people had resorted to radical means to express their views and fight for their interests in recent years.

80. Mr WONG Yuk-man appealed to Members to support his proposal with a view to examining the underlying causes of the Mong Kok incident. In view of the growing discontent against the Government, he considered that the findings of the proposed inquiry would provide positive insights for the Government in reviewing its policies and mapping out directions for improvement of governance.

81. Ms Cyd HO said that the continual suppression of widespread discontent among young people would only lead to their greater discontent. Members should face the Mong Kok incident squarely and the proposal put forward by 22 Members sought to find out the true causes leading to the Mong Kok incident and provide recommendations on measures to prevent the recurrence of similar incidents.

82. The Chairman first put to vote the proposal for the Chairman of HC to move the motion proposed by Mr WONG Yuk-man at the Council meeting of 2 March 2016 to seek the Council's authorization for the appointment of a select committee to inquire into the clashes between the Police and the public in Mong Kok from 8 to 9 February 2016 and related matters. Mr WONG Yuk-man requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Prof 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, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Mr IP Kin-yuen.
(25 Members)

Action

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 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 Paul TSE, 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 Christopher CHUNG and Mr Tony TSE.

(36 Members)

83. The Chairman declared that 25 Members voted for and 36 Members voted against the proposal and no Member abstained from voting. The Chairman declared that the proposal was not supported.

84. The Chairman then put to vote the proposal for the Chairman of HC to move the motion proposed by 22 Members at the Council meeting of 16 March 2016 to seek the Council's authorization for the appointment of a select committee to inquire into the clashes between the Police and the public in Mong Kok from 8 to 9 February 2016 and related matters. The Chairman ordered a division. Members agreed that the meeting would proceed to vote immediately on the proposal without the ringing of the five-minute voting bell.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Prof 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, 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 Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN

Action

Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Mr Paul TSE, 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 Christopher CHUNG and Mr Tony TSE.

(36 Members)

85. The Chairman declared that 25 Members voted for and 36 Members voted against the proposal and no Member abstained from voting. The Chairman declared that the proposal was not supported.

X. Any other business

86. There being no other business, the meeting ended at 4:14 pm.

Council Business Division 2
Legislative Council Secretariat
10 March 2016