

立法會
Legislative Council

LC Paper No. CB(2)1912/15-16

Ref : CB2/H/5/15

House Committee of the Legislative Council

**Minutes of the 31st meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 8 July 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, GBS, JP

Hon LEUNG Yiu-chung

Hon Emily LAU Wai-hing, JP

Hon TAM Yiu-chung, GBM, GBS, JP

Hon Abraham SHEK Lai-him, GBS, JP

Hon Tommy CHEUNG Yu-yan, GBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan, JP

Hon Starry LEE Wai-king, SBS, JP

Dr Hon LAM Tai-fai, SBS, JP

Hon CHAN Hak-kan, BBS, 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 IP Kwok-him, GBS, JP

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

Hon Paul TSE Wai-chun, JP

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 WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Gary FAN Kwok-wai
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
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
Ir Dr Hon LO Wai-ki, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS
Hon Alvin YEUNG Ngok-kiu

Members absent:

Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Vincent FANG Kang, GBS, JP
Hon WONG Kwok-hing, BBS, MH
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon WONG Kwok-kin, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Frankie YICK Chi-ming, JP
Hon Charles Peter MOK, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP

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 Timothy TSO	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 Rachel DAI	Assistant Legal Adviser 2
Mr YICK Wing-kin	Assistant Legal Adviser 8
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

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I. Confirmation of the minutes of the 30th meeting held on 24 June 2016

(LC Paper No. CB(2)1862/15-16)

The minutes were confirmed.

II. Matters arising

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

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

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 30 June 2016

(LC Paper No. LS60/15-16)

3. At the invitation of the Chairman, Legal Adviser briefed Members on the report prepared by the Legal Service Division on the two items of subsidiary legislation (i.e. L.N. 110 and L.N. 111) which were gazetted on 30 June 2016. Of these, one item (i.e. L.N. 110) was tabled in the Legislative Council ("LegCo") on 6 July 2016 and the other item (i.e. L.N. 111) was a regulation made under the United Nations Sanctions Ordinance (Cap. 537) ("UNSO") which was not required to be tabled in and not subject to amendment by LegCo.

4. Regarding the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016 (L.N. 111), Members noted that the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions had reported to the House Committee ("HC") on 24 June 2016 and had recommended that a dedicated subcommittee be set up under HC in the Sixth LegCo to deal with regulations made under UNSO. Members agreed to defer to HC in the next LegCo term to decide how L.N. 111 should be dealt with.

5. Members did not raise any question on the Legal Aid in Criminal Cases (Amendment) Rules 2016 (Commencement) Notice (L.N. 110). Members noted that the deadline for amending the Commencement Notice would be the second Council meeting in the next session.

IV. Business for the Council meeting of 13 July 2016

Meeting arrangement for the Council meeting of 13 July 2016

6. The Chairman informed Members that the meeting would start at 11:00 am and be suspended at around 8:00 pm on Wednesday, 13 July 2016. As the Chief Executive's Question and Answer Session would be held in the morning of Thursday, 14 July 2016, the meeting would resume at 12:00 noon and be suspended at around 8:00 pm on that day. The meeting would resume at 9:00 am and be adjourned at about (but no later than) 12:00 midnight on Friday, 15 July 2016.

(a) **Tabling of papers**

Report No. 22/15-16 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2)1864/15-16)

7. The Chairman said that the Report covered 12 items of subsidiary legislation and the period for amending those items would expire at the Council meeting of 13 July 2016. No Member had indicated intention to speak on those items of subsidiary legislation.

(b) **Questions**

(LC Paper No. CB(3)781/15-16)

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

(c) **Members' motions**

(i) **Two proposed resolutions to be moved by Hon Claudia MO under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the:**

- **Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016; and**
- **Specification of Public Offices (Amendment) Notice 2016**

(LC Paper No. CB(3)777/15-16)

(ii) **Motion under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to be moved by Hon Claudia MO**

(LC Paper No. CB(3)775/15-16)

9. The Chairman said that the above motions and those Members' motions which could not be dealt with at the Council meeting of 6 July 2016 would be placed on the Agenda for the Council meeting of 13 July 2016.

V. The Chief Executive's Question and Answer Session on 14 July 2016

10. The Chairman said that the Chief Executive's Question and Answer Session would be held on Thursday, 14 July 2016, from 9:30 am to 11:00 am.

VI. Reports of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Bank of Communications (Hong Kong) Limited (Merger) Bill**

(LC Paper No. CB(2)1876/15-16(01))

11. Mr SIN Chung-kai, Chairman of the Bills Committee, made a verbal report on the deliberations of the Bills Committee. Members noted that the Bank of Communications (Hong Kong) Limited (Merger) Bill ("the Bill") was a Member's Bill introduced by Mr NG Leung-sing with the consent of the Chief Executive to provide for the transfer of the retail banking business and private banking business of the Hong Kong Branch of Bank of Communications Co., Ltd. ("Hong Kong Branch") to the Bank of Communications (Hong Kong) Limited ("BCOM (Hong Kong)"), which was a newly established and locally incorporated subsidiary of Bank of Communications Co., Ltd. ("BCOM").

12. Mr SIN said that the Bills Committee noted that the proposed business transfer was part of BCOM's strategy to develop its business in Hong Kong, and was in line with the rising trend for international financial institutions to transfer their retail banking businesses to locally-incorporated subsidiaries. In accordance with the supervisory policy of the Hong Kong Monetary Authority ("HKMA"), a non-locally incorporated bank with sizeable retail banking business in Hong Kong should operate such business in the form of a locally-incorporated bank rather than in the form of a branch. Therefore, HKMA supported the transfer of the Hong Kong Branch's retail and private banking businesses to BCOM (Hong Kong).

13. Mr SIN further said that the Bills Committee had deliberated on HKMA's supervisory policy on non-locally incorporated banks and the arrangement for the business transfer of the Hong Kong Branch, including the scope of banking businesses to be transferred, arrangements to be made for notifying its existing customers and its staff members, and the capital base of BCOM (Hong Kong). Concerns were raised that the existing customers of the Hong Kong Branch might not clearly know

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which types of banking businesses that their accounts belonged to, and the job duties of some of the staff members might not be clearly defined as being engaged in the retail banking business, private banking business or corporate banking business. Members of the Bills Committee had urged the Hong Kong Branch to notify as soon as possible those customers and staff members who would be affected for better protection of their interests.

14. Mr SIN further said that the Bills Committee noted that under clause 2 of the Bill, BCOM might, on or before the appointed day, specify by a resolution or resolutions of its board of directors, certain property and liabilities of the retail or private banking business of the Hong Kong Branch to be excluded from the proposed business transfer. Concern was raised that the power to specify such exclusions would induce uncertainty, which might affect customers' interests. The Hong Kong Branch stressed that such power would only be exercised in very limited cases. For instance, there might be some selected customers who requested to retain their accounts with the Hong Kong Branch, which would then consider exercising such power. Furthermore, the Bill contained saving provisions to ensure that nothing in the Bill would affect the legal rights of the existing customers and staff members of the Hong Kong Branch.

15. Mr SIN informed Members that the Bills Committee had agreed to Mr NG Leung-sing's proposal to resume the Second Reading debate on the Bill at the Council meeting of 13 July 2016. In this connection, the Bills Committee recommended that the President's permission be sought under Rules 54(5) and 57(2) of the Rules of Procedure ("RoP") to dispense with the requisite notices for resuming the Second Reading debate on the Bill on 13 July 2016, and for moving Committee Stage amendments ("CSAs") to the Bill. Subject to the President's permission to dispense with the aforesaid notices, the Bills Committee also recommended that the deadline for giving the aforesaid notices be set at noon on Saturday, 9 July 2016.

16. Members supported the Bills Committee's above recommendations. Members noted that the Bills Committee and Mr NG Leung-sing would not propose any CSAs to the Bill. The Bills Committee would submit its written report in due course.

(Post-meeting note: The report of the Bills Committee was issued to Members after the HC meeting vide LC Paper No. CB(1)1111/15-16 on 8 July 2016. Members were informed via LC Paper No. CB(3)801/15-16 on the same day that the President had given permission for (a) dispensing with the notice requirement

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under RoP 54(5) so that the resumption of Second Reading debate on the Bill might take place at the Council meeting of 13 July 2016; and (b) the notice of CSAs proposed to the Bill to be given by 12:00 noon on 9 July 2016.)

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

(LC Paper No. CB(2)1865/15-16)

17. Mr IP Kwok-him, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Members noted that the deliberations of the Subcommittee mainly focused on immigration arrangements, cross-boundary students, subsidized obstetric services, and supporting services for new arrivals.

VII. Position on Bills Committees and subcommittees
(LC Paper No. CB(2)1863/15-16)

18. The Chairman said that all Bills Committees and subcommittees under HC had completed their work. Of the four subcommittees on policy issues under Panels, three subcommittees had completed their work and the remaining one subcommittee would soon conclude its work, and they would report to the relevant Panels.

VIII. Any other business

Proposal of Hon Gary FAN to seek HC's agreement for asking an urgent oral question at the Council meeting of 13 July 2016 on the safety issues in relation to the new trains for the Hong Kong section of Guangzhou-Hong Kong-Shenzhen Express Rail Link and for MTR urban lines

(LC Paper No. CB(2)1886/15-16(01))

19. Mr Gary FAN said that according to media reports, 35 Singapore Mass Rapid Transit ("SMRT") trains which were manufactured in the Mainland were returned to the relevant Mainland manufacturer for replacement of the train bodies on which cracks had been found. It was also revealed that the MTR Corporation Limited had procured 93 new trains for MTR urban lines and 9 trains for the Hong Kong section of the Guangzhou-Hong Kong-Shenzhen Express Rail Link ("XRL") from the same Mainland manufacturer without following the normal tender and procurement procedures. While the Secretary for Transport and Housing indicated that he was not aware of the incident of cracks having been

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found in SMRT trains, the Transport and Housing Bureau was reported to have received emails relating to the incident back in early 2015. As the quality of the new trains for MTR urban lines and for the Hong Kong section of XRL would have significant impact on rail services and public safety, he hoped that HC would support his proposal for asking an urgent oral question on relevant issues at the Council meeting of 13 July 2016.

20. Mr IP Kwok-him said that while it was for the President to decide whether permission should be given for Mr Gary FAN to ask the proposed question at the Council meeting of 13 July 2016 without the requisite notice, he did not consider that the proposed question was of an urgent nature and that there would be irreversible consequences if the question was not asked at that meeting. He added that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong did not support Mr FAN's proposal.

21. The Chairman put to vote Mr Gary FAN's proposal to seek HC's agreement for asking an urgent oral question at the Council meeting of 13 July 2016 on the safety issues in relation to the new trains for the Hong Kong section of XRL and for MTR urban lines. Mr Gary FAN requested a division.

The following Members voted in favour of the proposal:

Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Cyd HO, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Dennis KWOK, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr IP Kin-yuen and Mr Alvin YEUNG.
(24 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr IP Kwok-him, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Miss Alice MAK, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE.
(22 Members)

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22. The Chairman declared that 24 Members voted for and 22 Members voted against the proposal, and no Member abstained from voting. The Chairman declared that the proposal was supported.

Valedictory Motion

23. The Chairman said that it had been the convention for the Chairman of HC to move a valedictory motion at the last Council meeting of a LegCo term, and he had consulted preliminarily some Members of different political parties and groupings on the matter. These Members had expressed understanding of the current situation that the Council would still have to deal with several items with legislative effect at the meeting of 13 July 2016. Furthermore, as two Members' motions without legislative effect which had stood over from previous Council meetings were scheduled to be dealt with at the Council meeting of 13 July 2016, a request for moving a valedictory motion at that meeting would require jumping the queue for debate slots. The Chairman added that subject to Members' views, he would not move a valedictory motion at the Council meeting of 13 July 2016.

24. Members raised no objection to the Chairman's suggestion of not moving a valedictory motion at the Council meeting of 13 July 2016.

25. The Chairman said that this was the last regular meeting of HC in the current LegCo term. He thanked Members and the Secretariat for their support over the past four years, and he wished Members every success in their endeavours.

26. There being no other business, the meeting ended at 2:49 pm.