

**立法會**  
**Legislative Council**

LC Paper No. CB(1)708/17-18  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/1/16

**Bills Committee on Stamp Duty (Amendment) Bill 2017  
and Stamp Duty (Amendment) (No. 2) Bill 2017**

**Minutes of meeting  
on Tuesday, 7 November 2017, at 9:00 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon WONG Ting-kwong, GBS, JP (Chairman)  
Hon James TO Kun-sun  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon WU Chi-wai, MH  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon KWOK Wai-keung, JP  
Hon Alvin YEUNG  
Hon CHU Hoi-dick  
Hon Holden CHOW Ho-ding  
Hon Wilson OR Chong-shing, MH

**Members absent** : Hon Kenneth LEUNG  
Dr Hon Junius HO Kwan-yiu, JP

**Public officers attending** : Agenda Item I  
Transport and Housing Bureau  
Ms Esther LEUNG  
Deputy Secretary for Transport and Housing  
(Housing)

Miss Joyce KOK  
Principal Assistant Secretary for Transport and  
Housing (Housing) (Private Housing)

Mr Andrew FAN  
Senior Administrative Officer (Private Housing)1

Inland Revenue Department

Mr TAM Tai-pang  
Deputy Commissioner of Inland Revenue  
(Operations)

Mr HONG Wai-kuen  
Acting Chief Assessor (Stamp Office)

Department of Justice

Ms Françoise LAM  
Senior Assistant Law Draftsman

Miss Wendy HO  
Government Counsel

**Attendance by  
invitation**

: Agenda Item I

Hong Kong Chamber of Professional Property  
Consultants Limited

Mr Mike KOO Ho-chin  
Honorary President

Federation of International SME Ltd.

Mr Gary LO  
President

Hong Kong Real Estate Agencies General  
Association

Mr Calvin TSE Shun-lai  
Chairman

Hong Kong Property Agencies Association

Mr Tony KWOK Tak-leung  
Chairman

Liberal Party Youth Committee

Mr CHAN Kin-yip  
Vice Chairperson

Estate Agent Association

Mr Evan NG Yuen-hing  
Chairman

The Democratic Alliance for the Betterment and  
Progress of Hong Kong

Mr CHAN Chun-chung  
Deputy Spokesperson on Housing

**Clerk in attendance:** Mr Desmond LAM  
Chief Council Secretary (1)3

**Staff in attendance:** Mr Kelvin LEE  
Senior Assistant Legal Adviser 3

Ms Connie HO  
Senior Council Secretary (1)3

Ms May LEUNG  
Legislative Assistant (1)3

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Action

- I. Meeting with deputations and the Administration**  
(LC Paper No. CB(1)135/17-18(01) -- List of follow-up actions arising from the discussion at the meeting on 20 June 2017

- LC Paper No. CB(1)135/17-18(02) -- Administration's responses to issues raised at the meeting on 20 June 2017
- LC Paper No. CB(1)135/17-18(03) -- Senior Assistant Legal Adviser's letter dated 30 October 2017 to the Administration
- LC Paper No. CB(1)184/17-18(01) -- Administration's reply to Senior Assistant Legal Adviser's letter dated 30 October 2017

*Relevant papers*

- LC Paper No. CB(3)609/16-17 -- The Bill
- LC Paper No. CB(1)1162/16-17(01) -- Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)
- File Ref: HDCR4-3/PH/1-10/0-1 -- Legislative Council Brief issued by the Transport and Housing Bureau
- LC Paper No. LS73/16-17 -- Legal Service Division Report
- LC Paper No. CB(1)823/16-17(01) -- Administration's letter dated 12 April 2017 on "Tightening up of exemption arrangement under the New Residential Stamp Duty regime")

Disclosure of pecuniary interest

The Chairman drew members' attention to Rule 83A of the Rules of Procedure which provided that members should not speak on a matter in which they had a direct or indirect pecuniary interest, except where they disclosed the nature of that interest. The Chairman also reminded members that for those members who had disclosed the nature of their pecuniary interest relating to the subject of the Bill at the previous Bills Committee meetings, they should disclose the same interest at each of the subsequent meetings before they spoke.

2. Mr Paul TSE declared that he had involved in a real estate transaction

after the introduction of the New Residential Stamp Duty ("NRSD") regime on 5 November 2016, and as such, he would be directly affected by the new ad valorem stamp duty rate of 15% proposed under the Stamp Duty (Amendment) Bill 2017 ("the Bill"). Mr KWOK Wai-keung declared that he had procured a residential property recently, and was exempted from paying the 15% NRSD as he was a first-time home buyer.

#### Invitation of views from deputations

3. The Bills Committee received views from seven deputations attending the meeting on the Stamp Duty (Amendment) (No. 2) Bill 2017 ("the No. 2 Bill"). The Chairman reminded the individuals and representatives of the deputations that when addressing the Bills Committee, they would not be covered by the protection and immunity of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and their written submissions were also not covered by the said Ordinance. Members also noted the written submissions provided by the following deputations which did not attend the meeting –

- (a) Consumer Council (LC Paper No. CB(1)135/17-18(06) (English version only));
- (b) Hong Kong Institute of Real Estate Administrators (LC Paper No. CB(1)135/17-18(07) (Chinese version only));
- (c) The Real Estate Developers Association of Hong Kong (LC Paper No. CB(1)135/17-18(08) (English version only));
- (d) The Hong Kong Institute of Surveyors (LC Paper No. CB(1)175/17-18(01) (English version only));
- (e) Joint Council of Estate Agents Associations (LC Paper No. CB(1)175/17-18(02) (Chinese version only)); and
- (f) The Civic Party (LC Paper No. CB(1)193/17-18(01) (Chinese version only)).

4. The Bills Committee deliberated (Index of proceedings attached at **Annex**).

#### Follow-up actions to be taken by the Administration

5. The Administration was requested to –

- (a) consider setting out as exhaustive as possible scenarios to explain

clearly what would or would not be taken as a "single" residential property by the Inland Revenue Department, so as to enhance the legal certainty of relevant provisions of the No. 2 Bill, and enable members of the public to easily understand the definition of a "single" residential property under the No. 2 Bill; and

- (b) provide a written response to the deputations' written submissions received and views expressed at the meeting.

*(Post-meeting note : The Administration's response was issued to members vide LC Paper No. CB(1)522/17-18(03) on 25 January 2018.)*

Date of next meeting

6. The Chairman advised that the Secretariat would liaise with the Administration on the date of the next meeting having regard to the progress of the resumption of the proceedings of the committee of the whole Council on the Bill.

**II. Any other business**

7. There being no other business, the meeting ended at 11:01 am.

Council Business Division 1  
Legislative Council Secretariat  
16 March 2018

**Proceedings of the meeting of  
the Bills Committee on Stamp Duty (Amendment) Bill 2017  
and Stamp Duty (Amendment) (No. 2) Bill 2017  
on Tuesday, 7 November 2017, at 9:00 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda Item I – Meeting with deputations and the Administration</b>			
000807 – 001341	Chairman	<p>Opening remarks.</p> <p>The Chairman reminded members of the requirements under Rule 83A of the Rules of Procedure ("RoP"), which provided that members should not speak on a matter in which they had a direct or indirect pecuniary interest, except where they disclosed the nature of that interest.</p> <p>The Chairman reminded deputations that in line with the usual practice, their submissions would be arranged for access by the Administration, the media and the general public. When addressing the Bills Committee, deputations' oral presentations and written submissions were not protected by the privileges and immunities provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).</p>	
001342 – 002016	Mr Mike KOO Ho-chin, Hong Kong Chamber of Professional Property Consultants Limited ("HKCPPCL")	Presentation of views as set out in submission (LC Paper No. CB(1)135/17-18(04) (Chinese version only))	
002017 – 002452	Mr Gary LO, Federation of International SME Ltd.	Presentation of views as set out in submission (LC Paper No. CB(1)275/17-18(01) (Chinese version only))	
002453 – 003016	Mr Tony KWOK Tak-leung, Hong Kong Property Agencies Association ("HKPAA")	Presentation of views as set out in submission (LC Paper No. CB(1)135/17-18(05) (Chinese version only))	

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003017 – 003313	Mr CHAN Kin-yip, Liberal Party Youth Committee	Presentation of views	
003314 – 003833	Mr Evan NG Yuen-hing, Estate Agent Association ("EAA")	Presentation of views	
003834 – 004007	Mr CHAN Chun-chung, The Democratic Alliance for the Betterment and Progress of Hong Kong	Presentation of views as set out in submission (LC Paper No. CB(1)275/17-18(03) (Chinese version only))	
004008 – 004432	Mr Calvin TSE Shun-lai, Hong Kong Real Estate Agencies General Association ("HKREAGA")	Presentation of views as set out in submission (LC Paper No. CB(1)275/17-18(02) (Chinese version only))	
004433 – 005231	Chairman Administration	<p>At the invitation of the Chairman, the Administration briefed members on the progress of the Stamp Duty (Amendment) Bill 2017 ("the Bill") and gave initial responses to deputations' views expressed at the meeting as follows –</p> <p>(a) <u>The Bill</u></p> <p>(i) the motion on the second reading of the Bill was passed at the Council meeting of 13 July 2017. At the Council meeting of 18 October 2017, the Secretary for Transport and Housing moved a motion under RoP 40(4) to adjourn the proceedings of the committee of the whole Council on the Bill. The Bill was now pending for the Administration's notice to the resumption of the proceedings of committee of the whole Council on the Bill.</p> <p>(b) <u>Response to deputations' views</u></p> <p>(i) the majority of the deputations attending the</p>	

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		<p>meeting were in support of the tightening of the prevailing exemption arrangement for Hong Kong Permanent Residents ("HKPRs") under the New Residential Stamp Duty ("NRSD") regime as proposed under the Stamp Duty (Amendment) (No. 2) Bill 2017 ("No. 2 Bill"). Under the tightened exemption arrangement, acquisition of a single residential property (with or without one car parking space) under a single instrument by a HKPR who was acting on his/her own behalf and was not a beneficial owner of any other residential property (nor a beneficial owner of any other car parking space if the acquisition is with one car parking space) in Hong Kong at the time of acquisition would continue to be subject to the lower ad valorem stamp duty rates at Scale 2. However, if the HKPR concerned acquired more than one residential property under a single instrument, the transaction would no longer be exempted and would be subject to the NRSD rate of 15%;</p> <p>(ii) in view of the current market exuberance, the Administration had no intention to relax or withdraw the demand-side management measures at this stage, and considered that such measures were necessary to maintain the stable development of the residential property market;</p> <p>(iii) the major causes of soaring residential property prices included long-term housing demand-supply imbalance, as well as ultra-low interest rate and over abundant liquidity worldwide due to loose monetary policy in the global environment. The Administration had strived to increase housing supply to address the issue. The estimated completion of private residential properties in the next five years would be about 20 000 units on average each year, showing an increase of 70% as compared with the past five years. However, as the housing demand-supply balance in the short-term would still be tight, the Administration saw the need to maintain the</p>	

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		<p>demand-side management measures to prevent the property market from overheating;</p> <p>(iv) regarding the impact of the demand-side management measures on the secondary market, the Administration advised that the relevant measures were introduced in a targeted manner in response to the different signs of exuberance of the property market. Such measures aimed to curb short-term speculative activities (the Special Stamp Duty ("SSD")), reduce the external demand of non-local buyers (the Buyer's Stamp Duty ("BSD")) and investment demand from buyers who already owned one or more residential properties in Hong Kong (the doubled ad valorem stamp duty ("DSD") and the NRSD);</p> <p>(v) the demand-side management measures aimed at cooling down the residential property market. Whilst such measures might affect some industries, they were essential for the overall economic and social development of Hong Kong. The Administration would continue to closely monitor the residential property market. It had no intention to relax the relevant measures for the time being;</p> <p>(vi) whilst admitting that the demand-side management measures had reduced the number of secondary residential property transactions, the Administration did not agree to some deputations' views that such measures had frozen the secondary market. The number of secondary residential property transactions after 2013 were about 40 000 per year (i.e. 3 300 per month), and about 3 400 cases per month since the introduction of NRSD (i.e. from December 2016 to October 2017). This illustrated that the number of secondary residential property transactions before and after the introduction of NRSD were broadly the same; and</p> <p>(vii) some Members had proposed amendments</p>	

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		<p>to the Bill, to the effect that the statutory time limit for disposal of the original property in the case of property replacement by HKPRs under the prevailing exemption arrangement be extended from six months to nine or 12 months. The Administration considered the extension of the above said statutory time limit from six months to nine months acceptable and would implement the arrangement accordingly should the relevant amendments proposed by Members be passed by the Council.</p>	
005232 – 010529	<p>Chairman Mr James TO Mr Evan NG Yuen-hing, EAA Mr Tony KWOK Tak-leung, HKPAA</p>	<p>Discussion on the following suggestions of relaxing the exemption arrangement under the NRSD regime to boost supply in the secondary market –</p> <p>(a) to exempt property owners who owned more than one residential properties from paying NRSD when they acquired a flat to replace one of their existing properties; and</p> <p>(b) to exempt the payment of NRSD for transactions involving more than one properties under a single instrument provided that the number of properties sold by the buyers concerned in parallel exceeded or was equal to the number of flats acquired under the relevant instrument.</p> <p>Mr Evan NG of EAA opined that the above suggestions could help boost supply in the secondary market, in particular small flats which were in great demand by young people.</p> <p>Mr Tony KWOK of HKPAA pointed out that the number of flats put up on sale in the secondary market had reduced by 70% after the introduction of the demand-side management measures. The sharp reduction in supply of second-hand residential properties had pushed up both flat prices and rent. The Administration should consider introducing tax incentives to encourage property owners to put their flats on sale in the market.</p>	
010530 – 011751	<p>Chairman Mr Paul TSE Mr Mike KOO Ho-chin,</p>	<p>Mr Paul TSE's disclosure of pecuniary interest and expression of views as follows –</p> <p>(a) he did not support the policy intention of NRSD</p>	

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	HKCPPCL Administration	<p>which was to curb local investment demand as such measure tended to discourage those hardworking Hong Kong people who, apart from owning a flat for self-occupation, used their savings to acquire an additional flat for rental purpose in order to be self-reliant financially upon retirement. The market of residential property for self-use should be separated from that for speculation in the long term; and</p> <p>(b) the Administration should review the policy direction of the demand-side management measures given that such measures had benefitted property developers and not property owners at large.</p> <p>Mr Paul TSE sought deputations' views on the impact of the demand-side management measures on the secondary market.</p> <p>Mr Mike KOO Ho-chin of HKCPPCL advised that –</p> <p>(a) there were about 91 000 and 53 000 second-hand residential property transactions per year respectively before and after the introduction of the demand-side management measures;</p> <p>(b) the reduction in supply of second-hand residential properties had pushed up flat prices and buyers had turned to the primary market as a result; and</p> <p>(c) the demand-side management measures had also suppressed the demand for residential property replacement.</p> <p>The Administration clarified that –</p> <p>(a) the number of secondary residential property transactions mentioned earlier at the meeting referred to the period between 2013 and 2017, i.e. the period after the introduction of DSD to curb the investment demand. The volume of relevant transactions between 2007 and 2012 (i.e. before introduction of enhanced SSD and BSD in 2012 and DSD in 2013) would naturally be higher as the investment, external and speculative demands were fully reflected in such transactions; and</p>	

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		<p>(b) upon implementation of SSD to curb speculative demand, the number of short-term resale of residential properties had substantially fallen from 2 660 transactions per month in 2010 to 45 transactions per month during the third quarter of 2017.</p> <p>In respect of the initial suggestion of exempting property owners holding more than one residential properties from paying NRSD when they acquired properties for replacement provided that the total number of residential properties under their ownership would not be increased under the relevant transactions, the Administration advised that such a suggestion –</p> <p>(a) might be outside the scope of the No. 2 Bill since it would involve fundamental changes to the policy in respect of the exemption arrangement under the DSD/NRSD regime; and</p> <p>(b) should be considered with caution as it might be perceived as the Government's intention to relax the demand-side management measures, thus stimulating a new round of demand for residential properties.</p> <p>Mr Paul TSE was of the view that –</p> <p>(a) the Administration should consider putting in place measures to increase supply in secondary market and making appropriate amendments to the Bill to accommodate the relevant suggestions; and</p> <p>(b) while the suggestions might stimulate demand for residential properties, the benefits to be brought about by increase in supply in the secondary market would benefit the society more on the whole.</p>	
011752 – 012637	Chairman Mr James TO Senior Assistant Legal Adviser 3 ("SALA3") Administration	Mr James TO reiterated his views that the Administration should consider ways to encourage property owners who owned more than one residential properties to undergo property replacement so as to enhance circulation of residential properties and to boost supply in the secondary market. The	

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		<p>following suggestions were made for the Administration's consideration –</p> <ul style="list-style-type: none"> <li>(a) relaxing the prevailing exemption arrangement for HKPRs in respect of property replacement under the DSD and NRSD regimes to include scenarios other than one-on-one replacement of the only existing property of the HKPRs concerned;</li> <li>(b) to exempt buyers who acquired more than one residential properties under a single instrument to replace their existing properties under certain conditions (e.g. the number of residential properties to be sold in parallel exceeded the number of properties acquired, or the total floor areas of the properties acquired did not exceed those of the properties being sold) from NRSD payment; and</li> <li>(c) to encourage property owners who held more than one residential properties to put their flats on sale in the market by means of tax concessions.</li> </ul> <p>In response to the Chairman's enquiry, SALA 3 and the Administration gave initial views on whether the proposal for expanding the scope of the prevailing exemption arrangement to include the scenarios suggested by Mr James TO and Mr Paul TSE at the meeting could be dealt with under the context of the No. 2 Bill.</p> <p>The Administration advised that –</p> <ul style="list-style-type: none"> <li>(a) given that the Bill had already entered the proceedings of the committee of the whole Council, no further amendments could be proposed in respect of the Bill to accommodate the various suggestions; and</li> <li>(b) the sole objective of the No. 2 Bill was to amend the relevant provisions in the Stamp Duty Ordinance (Cap. 117) to tighten the exemption arrangement under the NRSD regime in respect of acquisition of multiple residential properties under a single instrument by a HKPR acting on his/her own behalf who was not a beneficial owner of any other residential property in Hong</li> </ul>	

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		Kong at the time of acquisition to circumvent payment of NRSD. As the suggestions of members would likely be outside the scope of the No. 2 Bill, the Administration had reservations about dealing with such suggestions in the context of the No. 2 Bill.	
012638 – 013006	Chairman Mr KWOK Wai-keung Administration	Mr KWOK Wai-keung's disclosure of pecuniary interest and expression of views as follows –  (a) the demand-side management measures had increased the transaction costs of residential properties substantively and pushed up flat prices to a level beyond normal expectation. Such measures were ineffective in addressing the issue of soaring residential property prices; and  (b) the Administration should review the long term impact of the demand-side management measures on the residential property market.	
013007 – 013354	Chairman Mr Holden CHOW Administration	Mr Holden CHOW's views that –  (a) members' proposed amendments to the Bill to extend the statutory time limit for disposal of the original property of HKPRs under the prevailing exemption arrangement could help revitalize the secondary market;  (b) as mentioned in Prof HO Lok-sang's paper enclosed in the Real Estate Developers Association of Hong Kong's submission [LC Paper No. CB(1)135/17-18(08)], the demand-side management measures had reduced the supply of secondary residential properties and pushed up flat prices. Developers had thus started to construct nano-flats that were well sought after by buyers to profiteer from the situation; and  (c) concurred with Mr James TO's views that the Administration should explore ways to boost supply in the secondary market by means of making suitable amendments to the No. 2 Bill.	
013355 – 014626	Chairman Mr James TO Mr Mike KOO Ho-chin,	Mr James TO's views that –  (a) there were some cases in real situation where a title deeds already covered a unit with two	

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	HKCPPCL Administration	<p>parking spaces, a unit with a roof not situated immediately above the unit, or a unit with part of the external wall of the building; and</p> <p>(b) to enhance certainty of the law, the Administration was suggested to consider adopting a broad principle in the No. 2 Bill that a unit together with the ownership of an additional subject which were covered by one title deeds as in the scenarios suggested above should be regarded as a "single" residential property, and thus the relevant transactions would be exempted from NRSD.</p> <p>Mr Mike KOO Ho-chin of HKCPPCL opined that the Administration should formulate targeted measures to foster the development of the secondary market, such as assisting buyers to acquire second-hand residential properties by relaxing the loan-to-value ratio.</p> <p>Mr James TO informed the deputations that he had proposed amendments to the Bill, to the effect that parties other than buyers and sellers of the residential property concerned, such as estate agents and tenants, would bear no liability for payment of NRSD.</p>	
014627 – 015355	Chairman Mr Abraham SHEK Mr Calvin TSE Shun-lai, HKREAGA Administration	<p>Mr Abraham SHEK criticized the Government's high land premium policy and was of the view that the demand-side management measures, which had generated a lot of stamp duty revenue for the Government, had distorted the residential property market and stifled the development of the secondary market. In his view, only the Government and property developers had benefited from such measures.</p> <p>The Administration's initial response to the enquiry of Mr Calvin TSE of HKREAGA on whether a duplex unit with an internal staircase connecting the unit located at the upper and lower floors respectively which was shown as one duplex unit in the relevant building plans might likely be taken as a "single" residential property by the Inland Revenue Department ("IRD").</p>	
015356 – 015649	Chairman Mr Tony KWOK Tak-leung, HKPAA	Mr Tony KWOK of HKPAA was of the view that as the proposed tightening of the exemption arrangement for HKPRs to plug the policy loophole of acquisition of multiple residential properties under a single	

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	Administration	instrument provided for under the No. 2 Bill was targeted at the primary market, IRD should adopt a relaxed approach in determining whether the special scenarios involving second-hand residential properties would be taken as a "single" residential property so as not to hamper the development of the secondary market.	
015650 – 020015	Chairman Mr Evan NG Yuen-hing, EAA Administration	<p>Mr Evan NG Yuen-hing of EAA shared with members some scenarios involving village houses where it was difficult to determine if the cases in questions would be taken as a "single" residential property, and enquired whether IRD would consider setting up a hotline manned by senior staff of the relevant Government departments to provide advice to estate agents and buyers on doubtful cases.</p> <p>The Administration advised that should the No. 2 Bill be passed, IRD would provide relevant guidelines for staff of the Stamp Office to equip them with necessary knowledge to answer public enquiries. However, not every case could be answered in a straight forward manner over the phone given that the level of complexity varies among different cases. It was not advisable for estate agents and property owners to decide to proceed with the property transactions merely based on the verbal reply of IRD staff.</p>	
020016 – 020502	Chairman Mr James TO Mr Holden CHOW Administration	<p>The Administration was requested to –</p> <p>(a) consider setting out as exhaustive as possible scenarios to explain clearly what would or would not be taken as a "single" residential property by the IRD, so as to enhance the legal certainty of relevant provisions of the No. 2 Bill, and enable members of the public to easily understand the definition of a "single" residential property under the No. 2 Bill; and</p> <p>(b) provide a written response to the deputations' written submissions received and views expressed at the meeting.</p> <p>Meeting arrangements.</p> <p>Closing remarks.</p>	See LC Paper No. CB(1)522/17-18 (03)

Council Business Division 1  
Legislative Council Secretariat  
16 March 2018