

立法會  
*Legislative Council*

LC Paper No. CB(2)41/16-17

Ref : CB2/H/5/16

**House Committee of the Legislative Council**

**Minutes of the 2nd meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 14 October 2016**

**Members present :**

Hon Starry LEE Wai-king, SBS, JP (Chairman)  
Hon Dennis KWOK Wing-hang (Deputy Chairman)  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon CHAN Kin-por, BBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon LEUNG Kwok-hung  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, 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 Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
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  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG  
Hon Andrew WAN Siu-kin  
Hon Eddie CHU Hoi-dick  
Hon Jimmy NG Wing-ka, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon HO Kai-ming  
Hon LAM Cheuk-ting  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan  
Dr Hon Pierre CHAN  
Hon CHAN Chun-ying  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon LAU Siu-lai  
Hon LAU Kwok-fan, MH  
Hon Kenneth LAU Ip-keung, MH, JP  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Nathan LAW Kwun-chung

**Members absent :**

Hon WONG Ting-kwong, SBS, JP  
Dr Hon YIU Chung-yim  
Hon Sixtus LEUNG Chung-hang  
Hon YAU Wai-ching

**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 Joyce CHAN	Assistant Legal Adviser 1
Miss Rachel DAI	Assistant Legal Adviser 2
Mr Alvin CHUI	Assistant Legal Adviser 3
Ms Vanessa CHENG	Assistant Legal Adviser 5
Ms Wendy KAN	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Mr YICK Wing-kin	Assistant Legal Adviser 8
Mr Richard WONG	Senior Council Secretary (2)6
Ms Jasmine TAM	Senior Council Secretary (2)8
Miss Connie AU	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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Action

**I. Legal Service Division report on subsidiary legislation gazetted between 21 June and 30 September 2016**  
*(LC Paper No. LS1/16-17)*

Requests for discussing issues relating the administration of the Legislative Council Oath by the Clerk to the Legislative Council and the election of the President of the Legislative Council at the Council meeting of 12 October 2016

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When the Chairman invited the Legal Adviser ("LA") to brief Members on the Legal Service Division ("LSD") report, Mr HUI Chi-fung indicated that he wished to raise a point of order. He said that

Action

he and Miss LAU Siu-lai had respectively written to the Chairman requesting to discuss at this House Committee ("HC") meeting issues relating to the administration of the Legislative Council ("LegCo") Oath by the Secretary General ("SG"), in his capacity as the Clerk to LegCo, and the election of the President conducted at the Council meeting of 12 October 2016. However, he had been advised that the Chairman considered it not appropriate for HC to discuss these issues. Mr HUI requested the Chairman to explain the reasons for making such a decision.

2. Miss LAU Siu-lai said that she also had a point of order. She opined that SG's decisions to decline jurisdiction to administer the oath/affirmations taken by the three Members, namely Dr YIU Chung-yim, Mr Sixtus LEUNG and Miss YAU Wai-ching, were based on his own subjective judgment. In her view, the election of the President at the Council meeting of 12 October 2016, as well as the elections of the Chairman of HC and the Chairman of the Finance Committee ("FC") held in the afternoon on the same day were unlawfully held. Miss LAU requested that the issues raised in her letter dated 13 October 2016, which was jointly signed by another 11 Members ("the joint letter"), be discussed first by Members at this HC meeting.

3. Expressing similar view with Miss LAU Siu-lai, Mr Nathan LAW also considered that the letter from Mr HUI Chi-fung and the joint letter should be dealt with first by HC before proceeding to the other items on the agenda.

4. The Chairman said that the points raised by Members were not points of order. She would inform Members of how to deal with these two letters under "Any Other Business" ("AOB").

5. Pointing out that one of the functions of HC was to deal with matters relating to the business of the Council, Mr HUI Chi-fung queried why the Chairman considered it inappropriate for HC to discuss his letter and the joint letter. Echoing Mr HUI Chi-fung's view, Mr James TO said that these two letters were related to the Agenda of the Council meeting of 19 October 2016. He added that there was not a deadline for proposing agenda items for this regular HC meeting of a new LegCo term. Mr TO and Dr Helena WONG asked whether Members would be allowed to discuss these two letters under AOB.

Action

6. At the invitation of the Chairman, the Clerk said, in response to Miss LAU Siu-lai's enquiry, that Rule 18 of the Rules of Procedure ("RoP") specified the order in which the various kinds of business of each Council meeting were to be transacted. As the committee chairman, the HC Chairman had the power to decide on the agenda items for a meeting and should ensure that the business on the agenda would be transacted in a proper and efficient manner.

7. The Chairman stressed that HC should deal with the business on the agenda of the meeting according to the order of the agenda items.

(When the Chairman was replying to Members' questions, some Members spoke aloud to point out that some of the doors of the meeting venue were locked and raised concern about fire safety. The matter was addressed immediately and those doors were soon unlocked.)

LSD report

8. At the invitation of the Chairman, LA briefed Members on the LSD report which covered the following two groups of subsidiary legislation gazetted between 21 June and 30 September 2016:

- (a) two items of subsidiary legislation tabled before the Fifth LegCo on 22 June and 6 July 2016 respectively (i.e. L.N. 101 and L.N. 110), the period for amendment of which was deemed to extend to and expire on the day after the second meeting of the Sixth LegCo (i.e. 19 October 2016) unless extended by a resolution of LegCo; and
- (b) four items of subsidiary legislation (i.e. L.N. 111 and L.N. 116 to L.N. 118) which were not required to be tabled before LegCo and were not subject to amendment by LegCo.

9. Mr WU Chi-wai considered it necessary to form a subcommittee to study the Road Traffic (Public Light Buses: Limit on Number) Notice 2016 (L.N. 101) in detail. Members agreed. The following Members agreed to join the subcommittee: Mr LEUNG Yiu-chung, Mr Frankie YICK, Mr WU Chi-wai and Mr LAU Kwok-fan.

Action

10. Mr LEUNG Kwok-hung considered it necessary to form a subcommittee to study the Legal Aid in Criminal Cases (Amendment) Rules 2016 (Commencement) Notice (L.N. 110) in detail. Members raised no objection. Mr LEUNG Kwok-hung and Mr Dennis KWOK indicated that they would like to join the proposed subcommittee.

11. The Chairman said that as the deadline for amending L.N. 101 and L.N. 110 was the Council meeting of 19 October 2016, she proposed to move a motion, in her capacity as the HC Chairman, at the Council meeting of 19 October 2016 to extend the scrutiny period of the two items of subsidiary legislation to 9 November 2016. Members agreed.

*(Post-meeting note: Soon after the meeting, Mr LEUNG Kwok-hung notified the Secretariat in writing that he wished to withdraw his proposal for forming a subcommittee to study L.N. 110 in detail and the Deputy Chairman who had indicated his intention to join the proposed subcommittee also had no objection to the withdrawal. In light of the above, the Chairman had given notice to move a motion at the Council meeting of 19 October 2016 to extend the scrutiny period of L.N. 101 only. However, the motion was not moved as the Council meeting of 19 October 2016 was adjourned due to the lack of a quorum before the motion was dealt with.)*

12. Regarding the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2016 (L.N. 111) which was made under the United Nations Sanctions Ordinance (Cap. 537) ("UNSO") and not required to be tabled before LegCo, LA said that a subcommittee was formed under HC in the Fifth LegCo to examine regulations made under UNSO for the implementation in Hong Kong of resolutions of the United Nations Security Council in relation to sanctions. Members might wish to consider whether a similar subcommittee should be formed in the Sixth LegCo.

13. Members agreed that a similar subcommittee should be formed in the Sixth LegCo to deal with regulations made under UNSO. Mr Dennis KWOK and Ms Tanya CHAN agreed to join the proposed subcommittee. Members also agreed that L.N. 111 would be referred to the proposed subcommittee for consideration.

14. Members did not raise any question on the remaining three items of subsidiary legislation (i.e. L.N. 116 to L.N. 118) covered in the LSD report.

**II. Legal Service Division report on subsidiary legislation gazetted on 7 October 2016**

*(LC Paper No. LS2/16-17)*

15. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the 36 items of subsidiary legislation (i.e. L.N. 119 to L.N. 154) which were gazetted on 7 October 2016.

16. Noting that LSD was still scrutinizing 11 items of subsidiary legislation made under the Merchant Shipping (Seafarers) Ordinance (Cap. 478) and the Administrative Appeals Board Ordinance (Cap. 442) (i.e. L.N. 133 to L.N. 143) and would make a further report if necessary, Mr James TO considered it more appropriate for HC to defer the decision on whether to form a subcommittee to study those items of subsidiary legislation pending LSD's advice on the outcome of its scrutiny. Members agreed to defer the decision to the next HC meeting.

17. Ms Tanya CHAN said that she noted that the Panel on Economic Development had not been consulted on the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013 (Commencement) Notice 2016 (L.N. 152), the Merchant Shipping (Seafarers) (Health and Safety: General Duties) (Amendment) Regulation 2016 (Commencement) Notice 2016 (L.N. 153), and the Merchant Shipping (Seafarers) (Medical Examination) (Amendment) Regulation 2016 (Commencement) Notice (L.N. 154). Ms CHAN added that she was particularly concerned whether the relevant seafarers' associations and trade organizations had been consulted on L.N. 153 and L.N. 154 and that it might be more appropriate to form a subcommittee to study the two items of subsidiary legislation in detail.

18. At the invitation of the Chairman, the Clerk said that the Administration might not necessarily consult the relevant Panel(s) on each and every item of subsidiary legislation to be introduced into LegCo. It was for HC to consider and decide whether it was necessary to form a subcommittee to study any item of the subsidiary legislation.

19. At the suggestion of Mr James TO, Members agreed that the Secretariat would request the Administration to provide information on the consultations conducted, if any, with the relevant stakeholders on L.N. 153 and L.N. 154. Members also agreed to defer the decision on whether to form a subcommittee to study the two items of subsidiary legislation to the next HC meeting pending the Administration's reply.

Action

(*Post-meeting note:* The Administration had provided the requisite information in its letter dated 19 October 2016 which was issued to Members vide LC Paper No. CB(2)35/16-17(01) on 20 October 2016.)

20. Members did not raise any question on the remaining 23 items of subsidiary legislation (i.e. L.N. 119 to L.N. 132 and L.N. 144 to L.N. 152) covered in the LSD report. The Chairman reminded Members that the deadline for amending those 23 items of subsidiary legislation would be the Council meeting of 9 November 2016.

### **III. Business for the Council meeting of 19 October 2016**

#### Meeting arrangement for the Council meeting of 19 October 2016

21. The Chairman said that the meeting would start at 11:00 am and be suspended at around 8:00 pm on Wednesday, 19 October 2016. The meeting would resume at 9:00 am and be adjourned at around 8:00 pm on Thursday, 20 October 2016.

#### Arrangements for the taking of the LegCo Oath

22. In response to the Deputy Chairman's enquiry, the Chairman advised that the President had confirmed that arrangements would be made for the Members concerned to take the LegCo Oath afresh at the beginning of the Council meeting of 19 October 2016 if they so requested.

23. Mr CHAN Hak-kan said that the attempts made by Mr Sixtus LEUNG and Miss YAU Wai-ching to reword the oath/affirmation they read out at the Council meeting of 12 October 2016 with expletives and/or expressions insulting to China had caused a public uproar. Many members of the public had demanded that Mr LEUNG and Miss YAU should be required to make an open apology to the public and withdraw those insulting expressions before permission was given for them to take the LegCo Oath afresh. Furthermore, as Miss LAU Siu-lai had openly admitted that she had intentionally read out the affirmation extremely slowly and it was also clear that Mr Nathan LAW had deliberately mispronounced the Chinese word "國" when reading out the affirmation, Members belonging to the pro-establishment camp would soon issue a joint statement requesting the President to review the validity of the

Action

affirmations subscribed by Miss LAU and Mr LAW and the need for them to take the LegCo Oath afresh. He hoped that the Chairman would convey the aforesaid views and concerns to the President for his consideration.

24. The Chairman reminded Members that they should only speak on the meeting arrangements for the forthcoming Council meeting of 19 October 2016.

25. Mr Alvin YEUNG said that many members of the public had expressed dissatisfaction over the inconsistent standards adopted by SG in administering the oath taken by Members at the Council meeting of 12 October 2016. Mr YEUNG stressed that there was an urgent need for SG to explain clearly and publicly at this meeting the criteria for determining whether an oath or affirmation made or subscribed by a Member had complied with the legal requirements for the taking of the LegCo Oath and the basis upon which he came to the view that the oath or affirmation made or subscribed by Dr YIU Chung-yim, Mr Sixtus LEUNG and Miss YAU Wai-ching at the Council meeting of 12 October 2016 had failed to fulfil such requirements.

26. Mr HUI Chi-fung said that there were past cases in which individual Members made personal statements before or after reading out the prescribed oath and the LegCo Oath taken by these Members were accepted by the then LegCo President. Both Mr HUI and Mr WU Chi-wai considered it necessary for SG to explain why he had adopted a different approach in handling similar cases at the Council meeting of 12 October 2016 and claimed that he could not administer the oath/affirmations taken by the Members concerned. They also considered it important for Members to be informed of the criteria to be adopted by the President in determining the validity of the oath to be taken afresh by some Members at the Council meeting of 19 October 2016 and the legal and/or procedural basis upon which the President would make rulings on whether the manner in which a Member took his/her oath was acceptable.

27. Miss LAU Siu-lai said that procedural unfairness had clearly arisen in the handling of the oath-taking by Members at the Council meeting of 12 October 2016. Miss LAU criticized that SG had, on the one hand, accepted the affirmation subscribed by Mr WONG Ting-kwong despite the fact that Mr WONG had omitted the words "Hong Kong" while subscribing his affirmation, and, on the other hand, refused to accept the

Action

oath/affirmations taken by three Members based on his own subjective judgment and deprived the three Members of their rights to vote in the election of the President. Miss LAU reiterated her earlier views about the unlawfulness of the election of the President and the elections of the Chairman of HC and the Chairman of FC held on 12 October 2016.

28. Mr IP Kin-yuen said that while he considered it acceptable for Members to state their political views when taking the LegCo Oath at the Council meeting of 12 October 2016, it was regrettable that some Members had done so by using certain insulting expressions. Mr IP added that in his view, the decisions made by SG as to whether he had the jurisdiction to administer the oath taken by individual Members at the Council meeting of 12 October 2016 were, in some cases, based on his subjective interpretation of whether the Members concerned had taken the oath in accordance with law.

29. Mr CHAN Han-pan pointed out that the form and the wording of the LegCo Oath required to be taken by Members were clearly stipulated in law, and it was totally unacceptable that some Members had incorporated expressions insulting to the Chinese nation in their oaths/affirmations. As these Members had already been given a second chance to take the LegCo Oath afresh at the Council meeting of 12 October 2016 and they had still failed to comply with the relevant legal requirements, the President should not offer them a third chance to take the LegCo Oath again at the Council meeting of 19 October 2016 and the payment of remuneration to these Members should be stopped.

30. Mr LAU Kwok-fan said that Members were required under Article 104 of the Basic Law ("BL") to swear to uphold BL and swear allegiance to the Hong Kong Special Administrative Region ("HKSAR") of the People's Republic of China in accordance with law when they assumed office. It was regrettable that some Members had wilfully reworded their oaths/affirmations with expressions insulting to China. He concurred with the view of Mr CHAN Hak-kan that Miss LAU Siu-lai and Mr Nathan LAW should be requested to take the LegCo Oath afresh before they were allowed to attend or vote in the meetings of the Council.

31. Mr Holden CHOW said that the judgment handed down by Mr Justice Hartmann in 2004 had clearly explained why Members had to take the LegCo Oath in the form and manner prescribed by law and to say each and every word in the prescribed oath. Having regard to the principles set out in Mr Justice Hartmann's judgement in relation to the

Action

taking of the LegCo Oath, he considered it reasonable and justifiable for Members to query the validity of the oath taken by Miss LAU Siu-lai, who deliberately made long pauses between the words of the affirmation she read out, at the Council meeting of 12 October 2016.

32. Dr CHIANG Lai-wan said that the expressions used by Mr Sixtus LEUNG and Miss YAU Wai-ching in their oath/affirmation which were insulting to China had infuriated Chinese people around the world and seriously undermined the image of LegCo. She appealed to all Members to sign the joint statement proposed by Members belonging to the pro-establishment camp to request Mr LEUNG and Miss YAU to withdraw those insulting expressions and apologize to Chinese people around the world before re-taking the LegCo Oath at the Council meeting of 19 October 2016.

33. Dr KWOK Ka-ki said that the current chaotic situation in LegCo arose mainly from many Members' dissatisfaction with the lack of universal suffrage for selecting the Chief Executive and for forming LegCo. He added that Mr Andrew LEUNG, who being a Member returned from functional constituency had no public mandate and did not renounce his British nationality until very recently in order to stand for the election of the President, had failed to prove to Members that he was qualified for the office of the President.

34. Mr LEUNG Che-cheung said that he noted that SG had declined jurisdiction to administer the LegCo Oath taken by several Members at the Council meeting of 12 October 2016. Mr LEUNG took the view that it was neither necessary nor appropriate to make arrangements for these Members to take the LegCo Oath afresh, as their actions and speeches were contrary to the declaration to uphold the principle of "One Country, Two Systems" which they had signed before standing for the 2016 LegCo election.

35. Ms Claudia MO said that while SG had no power to declare the LegCo Oath taken by a Member invalid, the effect of his saying that he had no jurisdiction to administer the oath/affirmations taken by three Members at the Council meeting of 12 October 2016 was that the Members concerned were disallowed to vote in the election of the President subsequently held at that meeting. She criticized that the manner in which SG handled the three Members' oath/affirmation was clearly different from that he adopted in handling a similar situation occurred with regard to Mr WONG Yuk-man in the Fifth LegCo.

Action

36. Mr CHAN Chi-chuen said that SG should, on behalf of the Secretariat, apologize to the public for failing to point out Mr WONG Ting-kwong's omission of the words "Hong Kong" when subscribing his affirmation at the Council meeting of 12 October 2016 and give a full account of the planning and preparatory work undertaken by the Secretariat for the taking of the LegCo Oath by Members on that day. He added that the incident that Mr WONG Ting-kwong was allowed to vote in the election of the President at the Council meeting of 12 October 2016 had called into question the impartiality of the Secretariat.

37. Mr Nathan LAW said that there were queries about whether SG had inappropriately exercised his powers as the oath administrator, thus resulting in some Members not being able to attend or vote in Council and committee meetings. This, in turn, called into question the legality of the elections of the President and the Chairman of HC held on 12 October 2016. He added that apart from providing for the re-taking of the LegCo Oath by the Members concerned, arrangements should also be made for re-conducting the election of the President at the Council meeting of 19 October 2016 in order to uphold justice and the dignity of LegCo.

38. Dr Helena WONG said that as there was a precedent case where a Member of the Fifth LegCo was allowed by the then President to take the LegCo Oath afresh, she considered that all of the four Members concerned, namely Dr YIU Chung-yim, Mr Sixtus LEUNG, Miss YAU Wai-ching and Mr WONG Ting-kwong, should be allowed to do so at the Council meeting of 19 October 2016. She considered that the Secretariat should clarify the specific criteria and the legal basis for determining the validity of the LegCo Oath taken by individual Members.

39. Mr LUK Chung-hung said that the oath-taking by Members when assuming office was not only a requirement under BL 104 and RoP 1 but also a solemn promise made by Members to the entire community. Mr LUK further said that the demand of some Members for an open apology from Mr Sixtus LEUNG and Miss YAU Wai-ching was indeed an opportunity for the two Members to make amends for their disrespectful behaviour. He stressed that should Mr LEUNG and Miss YAU be unwilling to uphold BL and swear allegiance to HKSAR, they should vacate their office.

Action

40. Mr LAM Cheuk-ting said that at the Council meeting of 12 October 2016, SG indicated that he had no jurisdiction to administer the oath/affirmation made or subscribed by Mr Sixtus LEUNG and Miss YAU Wai-chung on the grounds that the manner in which Mr LEUNG and Miss YAU took or subscribed the oath/affirmation, namely, displaying a banner bearing the words "HONG KONG IS NOT CHINA", had caused him reasonable doubts as to whether the two Members understood the content of the LegCo Oath. As it was clearly not possible for SG to read the mind of any Member, SG should base merely on the content of the oath/affirmation taken or subscribed by a Member in judging whether the Member had taken the LegCo Oath in accordance with law.

41. Mr SHIU Ka-chun sought clarification on whether there were any rules or legislation stipulating that a Member whose oath or affirmation was not accepted would only have one chance to take the LegCo Oath afresh. He also requested the Chairman to convey to the President that many members of the public had expressed appreciation of the manner in which Miss LAU Siu-lai and Dr YIU Chung-yim took the LegCo Oath at the Council meeting of 12 October 2016.

42. Mr James TO said that to facilitate Members' planning of their schedules, he hoped that the Chairman would urge the President to inform Members as early as possible of his ruling on the validity of the LegCo Oath taken by individual Members at the Council meeting of 12 October 2016; whether, and if so, which Members would be required to take the LegCo Oath afresh; and the basis upon which he made his ruling.

43. Mr LEUNG Kwok-hung opined that given the various queries raised over the eligibility of Mr Andrew LEUNG for the office of the President, Mr Andrew LEUNG should not administer the LegCo Oath at the Council meeting of 19 October 2016. He added that in his view, Mr Sixtus LEUNG and Miss YAU Wai-ching had already apologized to the public by explaining that the alterations to the content of the LegCo Oath that they had made when making or subscribing their oath or affirmation at the Council meeting of 12 October 2016 did not mean to insult China or the Chinese nation.

Action

44. Mr Jeremy TAM said that as Mr Andrew LEUNG, who had all along claimed to be "loving the country and Hong Kong", did not renounce his British nationality until late September 2016 in order to stand for the election of the President, it had caused him reasonable doubts as to whether Mr LEUNG understood the content of the LegCo Oath. He requested the Chairman to convey to the President his request for the President to take the LegCo Oath afresh at the Council meeting of 19 October 2016.

45. Mr WONG Kwok-kin said that he supported the proposal for the President to request the two Members who had incorporated expressions insulting to China in their oath/affirmation to take the LegCo Oath afresh at the Council meeting of 19 October 2016. He criticized Members belonging to the pro-democracy camp for conniving at the acts of these young Members, who sought to advocate the independence of Hong Kong. Mr WONG added that SG, as the Clerk to LegCo, was authorized by law to administer the LegCo Oath taken by Members, and it was unfair that some Members put the blame for the controversy over the oath-taking on the Secretariat.

46. Mr LEUNG Yiu-chung said that the Secretariat should clarify the criteria for determining the validity of the LegCo Oath taken by individual Members at the Council meeting of 12 October 2016, and the number of Members who would be required to take the LegCo Oath afresh at the Council meeting of 19 October 2016. He further requested that Members be advised on whether the result of the election of President held at the Council meeting of 12 October 2016 was valid if the oath or affirmation taken by a Member who had voted in the election was subsequently ruled to be invalid.

47. Mr Andrew WAN criticized that SG had adopted different criteria in his administration of the oath-taking by Members in the Fifth LegCo and at the Council meeting of 12 October 2016. He was concerned whether Mr LEUNG Yiu-chung and Mr Abraham SHEK were given the same information with regard to their role and power as the presiding Member at the election of the President, in particular RoP 3(3) stated that "[t]he President's deputy or other Member presiding shall enjoy all those powers conferred by these [RoP] on the President ... that are exercisable in respect of the meeting, or part of the meeting, of the Council...".

Action

48. Both Dr Elizabeth QUAT and Mr CHEUNG Kwok-kwan shared the view of Mr CHAN Hak-kan. Dr QUAT said that the expressions used by Mr Sixtus LEUNG and Miss YAU Wai-ching in their oath or affirmation which were insulting to China aroused the anger of many Hong Kong people. Their behaviour should be condemned and they should apologize for that before they were given another opportunity to take their oath/affirmation afresh. Mr CHEUNG said that as Miss LAU Siu-lai had admitted in her Facebook that the affirmation subscribed by her at the Council meeting of 12 October 2016 was a string of independent words which were unconnected and meaningless, he considered that Miss LAU should be required to take the oath afresh.

49. Mr Eddie CHU said that apart from the concern about the legality of the election of the President conducted at the Council meeting of 12 October 2016, the compliance by Mr Andrew LEUNG with regard to the nationality requirement of the President of LegCo was also in doubt. He urged Mr Andrew LEUNG to clarify and confirm whether he had complied with the qualification requirements of the President of LegCo as stipulated in Article 71 of BL prior to the Council meeting of 19 October 2016.

50. In response to the concerns of some Members, Mr Paul TSE said that according to section 17 of the Legislative Council Ordinance (Cap. 542), neither a vacancy in the membership of LegCo nor a defect in the election of a Member, or as to the eligibility of a person to be a Member, would affect the validity of its proceedings. He added that according to his understanding, RoP 18 did not stipulate any notice requirement for Members to make a request for taking the LegCo Oath at a Council meeting.

51. Ms Tanya CHAN said that according to Mr Justice Hartmann's judgement in 2004, a LegCo Member must take the oath in a manner and form that accorded with the Oaths and Declarations Ordinance (Cap. 11). In her view, the oath taken by Miss LAU Siu-lai was valid as Miss LAU had read out all the words specified in the LegCo Oath at the Council meeting of 12 October 2016. Ms CHAN criticized that the reasons given by SG for declining jurisdiction to administer the oath taken by Dr YIU Chung-yim, Mr Sixtus LEUNG and Miss YAU Wai-ching were subjective. She urged SG to clearly explain the legal basis on which his decision was made.

Action

52. Mr Steven HO said that arrangements for Members who had failed in their oath-taking at the Council meeting of 12 October 2016 to take the LegCo Oath afresh should not be made unless the Members concerned made such a request. He said that if Members continued to use expletives and/or expressions insulting to China when they took the LegCo Oath afresh at the following Council meeting of 19 October 2016, they should be disqualified as Members.

53. Concurring with the view of Mr Steven HO, Mr MA Fung-kwok said that he seriously condemned those Members who had used expressions insulting to China in their oath or affirmation. He added that permission from the President to take the LegCo Oath afresh should be sought by the Members concerned themselves.

54. Mr KWONG Chun-yu said that the duration of pause between a Member's oath/affirmation and the personal statement that the Member made before or after taking the oath was a subjective judgement. He pointed out that in the last term of LegCo, ruling on the validity of the oath taken by Mr WONG Yuk-man was made by the then President and not SG. He considered that SG, as the oath administrator, did not possess the power to rule on the validity of oath taken by Members.

55. Mr SHIU Ka-fai said that any questions concerning the validity of the presidency of Mr Andrew LEUNG and the validity of SG's decision regarding the oath-taking by Members at the Council meeting of 12 October 2016 could be clarified through legal means. He stressed that Members should not use expressions to insult Chinese people and Members belonging to the non pro-establishment camp were making enemies with all Chinese people if they continued to defend such behaviour.

56. The Chairman said that the President would administer the LegCo Oath at the Council meeting of 19 October 2016 and he would decide on the oath-taking arrangements and the criteria for determining the validity of the LegCo Oath. As it was her understanding that the President would meet with Members from various political parties/groups, Members might wish to raise with the President issues of concern to them. She would also relay to the President the views expressed by Members at this meeting.

Action

57. On Members' concerns over the administration of the LegCo Oath by SG at the Council meeting of 12 October 2016, the Chairman reiterated that SG had undertaken to respond in writing to the relevant issues. SG had also confirmed that Members might, as in the past, raise any issue with the Secretariat should they have any question on the written explanation to be issued by the Secretariat. The Chairman further said that as HC was not an appropriate venue to discuss issues relating to the qualification requirements of the President, Members should pursue these issues at other platforms as appropriate should they consider it necessary to do so.

58. Mr WU Chi-wai, Dr Helena WONG and Mr HUI Chi-fung strongly requested that SG be invited to respond to the various queries and questions raised by Members concerning the taking of the LegCo Oath by Members at the Council meeting of 12 October 2016 and the criteria on determining the validity of the LegCo Oath to be taken by some Members at the Council meeting of 19 October 2016.

59. Miss Alice MAK said that as it was the President who would administer the LegCo Oath to be taken afresh by the Members concerned at the Council meeting of 19 October 2016, any questions that Members might have about the oath-taking requirements should be addressed to the President. Mr Holden CHOW also commented that it would be illogical if HC had the power to review or rescind the decisions made at the Council meetings.

60. At the invitation of the Chairman, SG said that he had undertaken to provide a written explanation on issues relating to the administration of the LegCo Oath by the Clerk at the Council meeting of 12 October 2016. Should Members have any views on his performance as the oath administrator, they could relay such views to the President. SG further said that HC had all along served to prepare for future Council meetings and had no such function as reviewing the business conducted or decisions made at a previous Council meeting. He therefore considered it not appropriate to discuss at this HC meeting the oath-taking arrangements at the Council meeting of 12 October 2016.

(a) **Questions**  
(*LC Paper No. CB(3)15/16-17*)

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

Action

(b) **Bill - First Reading and moving of Second Reading**

62. Members noted that the Supplementary Appropriation (2015-2016) Bill would be presented to the Council on 19 October 2016.

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion under the Legislative Council (Powers and Privileges) Ordinance to be moved by Hon LAM Cheuk-ting**

*(LC Paper No. CB(3)22/16-17)*

(ii) **Motion on "Abolishing the Mandatory Provident Fund offsetting mechanism" to be moved by Hon WONG Kwok-kin**

*(LC Paper No. CB(3)23/16-17)*

(iii) **Motion on "Requiring the teaching of Chinese history as an independent subject at junior secondary level" to be moved by Hon CHEUNG Kwok-kwan**

*(LC Paper No. CB(3)23/16-17)*

64. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above three motions was 14 October 2016.

Report No. 1/16-17 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

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65. Members noted that the draft Report covered two items of subsidiary legislation (i.e. L.N. 101 and L.N. 110) and the period for amending the subsidiary legislation would expire at the Council meeting of 19 October 2016. Subject to the President's approval, the Report would be placed on the Agenda for the Council meeting of 19 October 2016.

66. The Chairman informed Members that Mr Frankie YICK had indicated intention to speak on the Road Traffic (Public Light Buses: Limit on Number) Notice 2016 (L.N. 101). However, as Members had agreed to form a subcommittee to study L.N. 101 in detail under agenda item I and she would move a motion at the Council meeting of 19 October 2016 to extend the scrutiny period of L.N. 101 to the Council meeting of 9 November 2016, it would not be necessary for her, in her capacity as the Chairman of HC, to move a motion to take note of the Report in relation to L.N. 101 at the Council meeting of 19 October 2016.

*(Post-meeting note: As the Council meeting of 19 October 2016 was adjourned due to a lack of quorum, the Report was not tabled in Council.)*

#### **IV. Business for the Council meeting of 26 October 2016**

(a) **Questions**

*(LC Paper No. CB(3)16/16-17)*

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

(b) **Bill - First Reading and moving of Second Reading**

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

(c) **Government motion**

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

(d) **Members' motions**

(i) **Motion to be moved by Dr Hon Priscilla LEUNG**

(ii) **Motion to be moved by Hon YUNG Hoi-yan**

70. The Chairman said that Dr Priscilla LEUNG and Ms YUNG Hoi-yan had respectively been allocated a debate slot.

Action

71. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above two motions would be Wednesday, 19 October 2016.

**V. Determination of a date for the election of members of The Legislative Council Commission**  
(LC Paper No. AS20/16-17)

72. In response to Mr CHAN Chi-chuen's enquiry, the Clerk explained that according to the resolution passed by the Council, election of members of the LegCo Commission should be held at a meeting of HC, and the LegCo Secretariat should issue a circular and a nomination form to Members at least seven clear days before the election date. As such, the earliest opportunity for the election of members of the Commission to be held would be the HC meeting on 28 October 2016.

73. Members agreed that the election of members of The LegCo Commission would be held at the HC meeting on 28 October 2016.

**VI. Determination of a date for the election of members of the Committee on Access to the Legislature's Documents and Records**  
(LC Paper No. COA1/16-17)

74. Members agreed that the election of members of the Committee on Access to the Legislature's Documents and Records would be held at the HC meeting on 28 October 2016.

**VII. Proposed arrangement for signification of membership of the Parliamentary Liaison Subcommittee**  
(LC Paper No. CB(4)2/16-17)

75. The Chairman said that having regard to the arrangement adopted by HC of the past two terms of LegCo, it was proposed that no limit on the membership size of the Parliamentary Liaison Subcommittee should be set for the Sixth LegCo. Members agreed.

76. The Chairman further said that Members might join the Subcommittee by submission of a return to the Secretariat by the deadline specified in a circular to be issued to Members.

**VIII. Procedure for the nomination and election of Members for appointment to the Public Accounts Committee, Committee on Members' Interests and Committee on Rules of Procedure**  
(*LC Paper No. CB(4)3/16-17*)

77. Members endorsed the procedure for the nomination and election of Members for appointment to the Public Accounts Committee ("PAC"), Committee on Members' Interests ("CMI") and Committee on Rules of Procedure ("CRoP") proposed in paragraphs 4 and 5 of as well as Appendix IV to the paper. Members also agreed that the nomination and election of Members for appointment to the above three committees would be held at the next HC meeting on 21 October 2016.

**IX. Procedure for the nomination and election of Members of the Legislative Council to advisory/governing bodies**  
(*LC Paper No. CB(2)2/16-17*)

78. Mr LEUNG Kwok-hung said that should the election of the President conducted at the Council meeting of 12 October 2016 be ruled unlawful, the presidency of Mr Andrew LEUNG would be invalidated. Mr Andrew LEUNG would then become a member of HC and was eligible for being nominated and elected to serve on the advisory/governing bodies and also the three committees as mentioned above under agenda item VIII. He considered that these elections should be deferred until the legality of his presidency was established.

79. At the invitation of the Chairman, the Clerk informed Members that the President's view had already been sought on the relevant proposed nomination and election procedure. The President's view was that he would agree to the proposed nomination and election procedure provided that it was agreed by members of HC.

80. Mr James TO considered it not necessary to defer the elections concerned. He suggested the Clerk to seek confirmation from Mr Andrew LEUNG that he was fully aware of the possible scenario raised by Mr LEUNG Kwok-hung and had no objection that the relevant elections be conducted at the HC meeting on 21 October 2016. The Clerk was requested to follow up.

Action

81. Members endorsed the proposed nomination and election procedure as set out in paragraph 11 of the paper. Members also agreed that the nomination and election be held at the next HC meeting on 21 October 2016.

*(Post-meeting note: The Clerk had relayed the concerns raised by Mr LEUNG Kwok-hung and Mr James TO to the President. The President noted their concern and raised no objection to the relevant elections to be conducted at the HC meeting on 21 October 2016. As the HC meeting scheduled for 21 October 2016 was cancelled due to typhoon, the relevant elections had been rescheduled to be held at the HC meeting on 28 October 2016.)*

**X. Voting arrangements for conducting elections of Members for appointment to the Public Accounts Committee, Committee on Members' Interests and Committee on Rules of Procedure of the Legislative Council and to advisory/governing bodies**  
*(LC Paper No. CB(2)3/16-17)*

82. At the invitation of the Chairman, the Clerk briefed Members on the proposal to continue to use the Electronic Voting System ("EVS") for casting votes in the elections of Members for appointment to PAC, CMI and CRoP and to advisory/governing bodies as detailed in the paper. Members noted that the relevant voting records would be uploaded onto the LegCo website after the HC meeting at which the elections were conducted in accordance with the established practice. In response to Dr Helena WONG's and Mr CHAN Chi-chuen's enquiries, the Clerk said that the election would be conducted by open ballot and Members' choices in respect of each nominee would be recorded in EVS. With a new polling feature in the revamped EVS, an alert message would appear on the Member's tablet should a Member intended to select a number of nominees in excess of the number required for appointment.

83. Members endorsed the proposal set out in paragraphs 3 and 4 of the paper.

**XI. Proposal from Dr Hon Fernando CHEUNG for setting up a subcommittee on children's rights under the House Committee**  
(*LC Paper No. CB(2)4/16-17(04)*)

84. At the invitation of the Chairman, Dr Fernando CHEUNG said that many children, in particular those with disabilities, special educational needs or limited financial means, were living under a very tough circumstances. Given that Hong Kong did not have a comprehensive policy on children and the subject matter straddled the policy areas of several Panels, he considered it appropriate for the proposed subcommittee to be set up under HC.

85. Mr LEUNG Yiu-chung, Mr LEUNG Kwok-hung, Miss Alice MAK, Mr IP Kin-yuen, the Deputy Chairman, Mr KWONG Chun-yu and Mr Nathan LAW expressed support for the proposal. Dr Helena WONG said that Members of the Democratic Party also supported the proposal. These Members considered that the proposed subcommittee, if appointed, could enable Members to discuss with different Government bureaux/departments with a view to improve the coordination and implementation of various policies concerning children's rights.

86. Dr Priscilla LEUNG said that while she was also concerned about children's rights, she considered it more appropriate for the proposed subcommittee to study the issues from the perspective of families. Dr CHIANG Lai-wan said that as there was a maximum number of subcommittees that might be in operation at any one time, it would be desirable to incorporate women's rights in the terms of reference of the proposed subcommittee so that both issues, which were of equal importance in her view, could be studied concurrently.

87. On Dr CHIANG Lai-wan's suggestion, Mr LEUNG Yiu-chung considered it not desirable to expand the scope of study of the proposed subcommittee to include other subject matters, given that the proposed subcommittee was required to finish its work within 12 months.

88. Dr Fernando CHEUNG said that while the Government had set up regular platform to discuss public policies on women and families, there was no platform for discussing matters concerning children's rights. He appealed to Members to support his proposal.

Action

89. The Chairman advised that subcommittees of policy issues could be formed under HC as well as Panels to consider matters of concern. The maximum number of such subcommittees that might be in operation at any one time was 10.

90. Members endorsed the appointment of the proposed subcommittee with the terms of reference, work plan and time frame as set out in the paper. The following Members agreed to join the subcommittee: Mr LEUNG Yiu-chung, Dr Priscilla LEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr Andrew WAN, Miss LAU Siu-lai, Dr CHENG Chung-tai and Mr Nathan LAW.

**XII. Proposal from Hon Claudia MO for setting up a subcommittee on rights of ethnic minorities under the House Committee**  
(*LC Paper No. CB(2)4/16-17(05)*)

91. At the invitation of the Chairman, Ms Claudia MO said that there was a dire need to set up a subcommittee to look into the rights and welfare of ethnic minorities ("EMs") in Hong Kong. As the problems faced by EMs straddled a number of policy areas, she considered it appropriate for the proposed subcommittee to be set up under HC.

92. Mr Kenneth LEUNG, Dr Fernando CHEUNG and Mr Andrew WAN expressed support for Ms Claudia MO's proposal. Dr Helena WONG said that Members belonging to the Democratic Party supported the proposal. Mr Alvin YEUNG said that Members belonging to the Civic Party supported the proposal. These Members pointed out that there was presently no official platform dedicated to the discussion of issues pertaining to the welfare and rights of EMs. While expressing support for the proposal, Mr Eddie CHU said that the propaganda against bogus refugees by the pro-establishment camp had added to the difficulties faced by EMs.

93. Dr Priscilla LEUNG, Mr WONG Kwok-kin, Miss Alice MAK, Ir Dr LO Wai-kwok, Mr HO Kai-ming and Mr Holden CHOW also supported the proposal. Dr LEUNG, Mr WONG, Ir Dr LO and Mr HO sought confirmation on whether the proposed subcommittee would confine its scope of study to only those EMs who had the legal right to stay in Hong Kong. Ms Claudia MO replied in the affirmative.

Action

94. Mr CHENG Chung-tai said that there was discrepancy between the Chinese and English names of the proposed subcommittee. In his view, "權益" might be more suitably translated as "welfare" in English while "rights" carried a meaning closer to "權利" in Chinese.

95. Members endorsed the appointment of the proposed subcommittee with the terms of reference, work plan and time frame as set out in the paper. The following Members agreed to join the subcommittee: Dr Priscilla LEUNG, Ms Claudia MO, Miss Alice MAK, Dr Fernando CHEUNG, Mr Andrew WAN and Mr Holden CHOW.

### **XIII. Any other business**

#### Up-to-date position on the signification of membership of Panels

96. The Chairman reminded Members that the deadline for signification of membership of the 18 Panels would be 12:00 noon, Saturday, 15 October 2016. Members might view the up-to-date position of the signification of membership of Panels via the Online System for Signification of Membership for Committees.

#### Requests for discussing issues relating to the administration of the LegCo Oath by the Clerk to the LegCo and the election of the President of the LegCo at the Council meeting of 12 October 2016

97. Regarding the two letters requesting discussion at this HC meeting of the issues relating to the administration of the LegCo Oath by the Clerk to the LegCo and the election of President at the Council meeting of 12 October 2016, the Chairman said that it was not appropriate for HC to review a decision made in the Council meetings and HC had no power to deal with the matter concerning the lawfulness of the election of the President at the Council meeting of 12 October 2016. The Chairman said that Members had also requested in the letters that SG be questioned at the meeting and that the Secretariat should clarify its role in the election of the President. She noted that SG had already issued a written response on 13 October 2016 in response to Members' concerns over the election of the President conducted at the Council meeting of 12 October 2016. In his response, SG had elucidated the basic principles of the operation of the Council, the qualification requirements for the President, and the role and power of the presiding Member at the election, as well as the role and advice of the Secretariat. The Chairman stressed that it had always been the practice that the advices provided by the Secretariat to

Action

Members would not and should not be debated openly at the HC meetings. Should Members have any views on the work of the Secretariat, they could put forward their views to the President. If Members considered it necessary, she would refer their issues of concern to the LegCo Commission for discussion. The Chairman added that should Members have concerns about the arrangements for the taking of LegCo Oath and the election of President on 12 October 2016, they might consider referring their issues of concern to CRoP for review and follow up.

98. Mr HUI Chi-fung reiterated his earlier view that one of the functions of HC was to deal with matters relating to the business of the Council. He considered the Chairman's decision of not allowing time for Members to discuss the two letters an abuse of the power of the Chairman. Concurring with the view of Mr HUI about the functions of HC, Mr James TO said that he would challenge the decision of the Chairman not to allow discussion. Mr Andrew WAN also questioned how the Chairman came to the decision.

99. Expressing concurrence with Mr James TO's view, Dr Fernando CHEUNG considered that HC was an appropriate forum to discuss the issues raised in the two letters. Members could discuss whether the discussion should be conducted at a regular meeting or a special meeting.

100. Ms Claudia MO considered that HC was a more suitable forum for Members to discuss those issues raised in the two letters as they were related to the business of the Council and HC which comprised all Members except the President conducted its meetings in public.

101. Dr CHENG Chung-tai said that those who had decided and arranged to lock some of the doors of the conference room during the Council meeting of 12 October 2016 and at this HC meeting might have committed an offence under the relevant section of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) by interfering or obstructing Members going to, being within or going from the precincts of the Chamber.

102. Mr WONG Kwok-kin supported the Chairman's decision and considered that it was not appropriate for HC to have a discussion on any decision already made in the Council. He added that he had reservations about questioning the advices provided by the Secretariat to Members at an open meeting, and suggested those members relaying their views on the work of the Secretariat to the LegCo Commission. Mr HO Kai-ming also expressed similar view and pointed out that SG was in his capacity as

Action

the Clerk to LegCo in the administration of the taking of the LegCo Oath at the Council meeting of 12 October 2016, as that was provided for in the Oaths and Declarations Ordinance (Cap. 11). Ms Alice MAK considered that those Members who requested discussing the issues raised in the two letters at this meeting could express their views in other platforms.

103. Ms Tanya CHAN said that as provided in Rule 20(f) of the House Rules, a Member wishing to raise an urgent item after the deadline for proposing agenda items for a meeting might make a request to the HC Chairman for it to be discussed at the meeting under AOB. She opined that the Chairman should allow a discussion on the issues raised in the two letters under AOB before deciding whether to accede to the request.

104. Dr Elizabeth QUAT and Mr LEUNG Chi-cheung expressed support for the Chairman's decision and considered it inappropriate for HC to discuss those decisions made in Council. Dr QUAT considered it an appropriate arrangement that issues raised in the two letters be relayed to the President, the LegCo Commission and CRoP for consideration and follow up where appropriate. Mr LEUNG added that as stipulated in RoP 44, the decision of the chairman on a point of order should be final.

105. Miss LAU Siu-lai said that according to her understanding, there was a provision in RoP that the Member presiding at the meeting should enjoy all those powers conferred by RoP on the President that were exercisable in respect of the meeting. However, when Mr LEUNG Yiu-chung presided at the election of the President at the Council meeting of 12 October 2016, he was advised by the Secretariat that he had no power to adjourn the Council meeting.

106. Mr Nathan LAW considered that the written response issued by SG on 13 October 2016 had not addressed all the concerns raised by Members about the administration of the LegCo Oath by SG and the election of the President at the Council meeting of 12 October 2016.

107. The Deputy Chairman said that RoP 75(11) stipulated that the committee might consider, in such manner as it thought fit, any other item relating to the business of the Council. In his view, the issues raised in the two letters were related to the business of the Council and should be discussed by HC. He requested the Chairman to reconsider Members' requests for discussing those issues raised in the two letters at this meeting.

Action

108. Mr Alvin YEUNG and Mr LEUNG Kwok-hung expressed similar view that SG should be invited to respond to Members' questions at an open meeting. Mr KWONG Chun-yu was concerned about the manner in which SG handled the three Members' oath/affirmation at the Council meeting of 12 October 2016 was clearly different from that he adopted in handling a similar situation occurred in the Fifth LegCo.

109. Mr Eddie CHU said that Members should be given an explanation in respect of the criteria that had been adopted by SG in administering the oath taking by Members and those that would be adopted by the President for ruling the validity of the oaths taken by Members. He remained concerned about whether the President met the requirements of Article 71 of BL and whether Mr LEUNG Yiu-chung had been misled by those advices provided by the Secretariat when he presided at the election of the President on 12 October 2016.

110. Mr LEUNG Yiu-chung said that he considered it unfair to him as he was advised by the Secretariat that as the presiding Member at the election of the President conducted at the Council meeting of 12 October 2016, he did not have the power conferred on the President or the chairman of a committee to adjourn the meeting. He sought an immediate clarification about his role and power as the presiding Member at the election of the President.

111. Noting that the re-taking of oath was the first item of the Agenda of the Council meeting of 19 October 2016, Mr Kenneth LEUNG said that in accordance with RoP 1, no Member should attend a meeting until he had made or subscribed an oath or affirmation. He wondered how the four Members whose oath/affirmations taken at the Council meeting of 12 October 2016 were ruled invalid could attend the Council meeting of 19 October 2016 to take their oaths afresh.

112. The Chairman said that while she took note of Members' views, she maintained her decision of not putting the joint letter and the letter from Mr HUI Chi-fung under AOB for discussion. She further said that to her understanding, the work of HC had all along been "forward looking" and of procedural nature, i.e. deciding how matters arising from previous Council meetings would be followed up and preparing Members for the business to be dealt with at the forthcoming meetings of the Council. To maintain an effective division of work among various committees of the Council, it was more appropriate for Members to relay

Action

their views and concerns to the relevant committees (such as the LegCo Commission and CRoP). The Chairman added that in accordance with RoP 44, her decision on a point of order should be final. If Members had any views on the decision, they were welcomed to discuss with her after the meeting. However, she would invite SG to make a consolidated response to Members' concerns.

113. At the invitation of the Chairman, SG said that he had already issued a written response to Members' concerns about the election of the President on 13 October 2016. He would also issue a written response in respect of the administration of the taking of LegCo Oath by him at the Council meeting of 12 October 2016 as soon as possible. SG stressed that the work of HC had all along been "forward looking" and it was not appropriate for HC to review the decision made in the Council. The Secretariat had all along been committed to providing Members with independent and professional advices, and it was inappropriate for these advices to be discussed or debated openly. Members who had any view on the work of the Secretariat could relay their views to him.

*(Post-meeting note: SG had issued a paper to all Members setting out his considerations in declining jurisdiction to administer the oath/affirmations taken by the three Members concerned at the Council meeting of 12 October 2016 vide LC Paper No. CB(3)43/16-17 on 18 October 2016.)*

114. There being no other business, the meeting ended at 6:00 pm.

Council Business Division 2  
Legislative Council Secretariat  
27 October 2016