

立法會
Legislative Council

LC Paper No. CB(2)1435/18-19

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House Committee of the Legislative Council

**Minutes of the 22nd meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 10 May 2019**

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 WONG Ting-kwong, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, 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 Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, 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, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG

Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kiwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon 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 Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying, JP
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS
Hon CHAN Hoi-yan

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Before the Chairman invited Members to confirm the minutes, Ms Claudia MO said that she would like to raise a point of order. Referring to the Chairman's written reply to the letter from 23 Members including herself to the Chairman dated 7 May 2019, she queried why the Chairman had to seek external legal advice regarding their request to move a motion at this House Committee ("HC") meeting to censure the Secretary General ("SG") and to express no confidence in SG in discharging his duties. Ms MO considered that the Chairman was trying to protect SG, adding that even the Chairman herself and the Chairman of the Finance Committee, Mr CHAN Kin-por, did not need to seek external legal advice in respect of the motions to express no confidence in them.

2. Dr KWOK Ka-ki criticized that SG had usurped the powers of Mr James TO in relation to Mr TO's capacity as the presiding Member in the election of the chairman of the Bills Committee on Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bills Committee concerned"). Dr KWOK pointed out that Mr TO's view had not been sought on how the guidelines provided by HC to the Bills Committee concerned ("the HC guidelines"), which was passed by HC at its special meeting on 4 May 2019 ("the special HC meeting concerned"), should be handled by the Bills Committee concerned. Dr KWOK considered that SG should be held personally liable for the matter and that Members could move a motion of no confidence in a staff member of the Secretariat who was found to be incompetent. Mr Gary FAN said that he also had a point of order to raise. He considered that the usurpation of the powers of Mr TO (as the presiding Member in the election of the chairman of the Bills Committee concerned) by SG had affected the operation of the Legislative Council ("LegCo").

3. The Chairman responded that as explained in her reply letter to the 23 Members, the motion proposed to be moved was related to SG as well as the staff members of the Secretariat who had provided supporting services to the special HC meeting concerned and had taken related follow-up work. The Chairman further said that to her understanding, the President had also received a notice given by a Member to move a motion seeking to appoint a select committee under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to inquire into the incident relating to the Secretariat in handling matters related to the Bills Committee concerned. Since the two motions were related to accusations against the Secretariat, the President and she considered it prudent to seek external legal advice. She had therefore decided that the

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request from the 23 Members would be considered later after the relevant external legal advice had been obtained. The Chairman further advised that issues relating to the performance of duties of the employees of the Secretariat should be discussed by The Legislative Council Commission ("the Commission").

4. Dr KWOK Ka-ki and Mr Gary FAN said that the subject of the censure motion proposed to be moved by the 23 Members was SG but not the Secretariat as a whole. They considered that the Chairman should not use the Secretariat as a pretext to forestall the moving of the proposed motion at HC. Mr HUI Chi-fung commented that the Chairman was shielding SG and queried that the Chairman's decision of not considering Members' request for moving the proposed motion at this meeting had contravened the Rules of Procedure ("RoP").

5. The Chairman said that she had made her decision in accordance with RoP, and the issues raised by Members were not points of order. She further said that a number of items on today's agenda, including the reports prepared by the Legal Service Division ("LSD") on the Franchised Taxi Services Bill and the subsidiary legislation gazetted on 3 May 2019, were time-critical and would require the timely decisions of HC. The Chairman hoped that Members would allow HC to finish the items on the agenda first. Depending on the time left for the meeting, she would allow Members to raise issues of their concerns under "Any other business".

6. Mr KWONG Chun-yu requested the Chairman to explain her decision of not allowing him to move a motion under RoP 40(1) at the special HC meeting concerned to adjourn the debate on the handling of matters relating to the election of the chairman of the Bills Committee concerned. The Chairman said that she had already explained her decision at the special HC meeting concerned. Members could raise their further views on related issues under agenda item IX "Handling of the request of 24 Members to move a motion of no confidence in the Chairman of the House Committee".

Confirmation of minutes of the HC meeting on 3 May 2019

7. Referring to the expression "some Members of the pro-democracy camp" in the remarks made in brackets in the minutes of the last HC meeting on 3 May 2019, Mr Jeremy TAM enquired whether such an expression had all along been used by the Secretariat in preparing minutes

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of HC meetings. Mr TAM pointed out that during the last HC meeting, some Members of the pro-establishment camp had also spoken loudly in their seats. He considered it problematic for the minutes not to reflect accurately that situation, but only making remarks about "some Members of the pro-democracy camp" speaking loudly in their seats.

8. At the invitation of the Chairman, the Clerk explained that in preparing the minutes of HC meetings, the Secretariat had all along, based on the audio and video recordings of meetings, made remarks in brackets to provide a narrative account of the relevant proceedings of meetings relating to order of meetings. This was consistent with the way minutes of Council meetings were prepared. Besides, the expression "Members of the pro-democracy camp" had been used in preparing minutes of HC meetings.

9. Mr CHAN Chi-chuen and Mr Kenneth LEUNG considered the expression "Members of the pro-democracy camp" not accurate and confusing as it referred to Members who belonged to various political parties/groupings. Dr KWOK Ka-ki considered it inappropriate to arbitrarily put political labels on Members. Mr LEUNG suggested that the Secretariat should use the political parties/groupings to which Members themselves declared they belonged. Mr CHAN said that he had lost his trust in the Secretariat, and he could not agree to the minutes. He considered that there was a need to conduct a voting by division on whether the minutes of the meeting on 3 May 2019 be confirmed. Mr LEUNG said that before the voting, Members should be allowed to propose amendments to the minutes.

10. The Chairman said that it was the practice that proposed amendments to minutes of meetings, if any, should be submitted in writing before the relevant meeting, and she did not receive any proposed amendments from Members before this meeting. However, she would allow Members to submit their proposed amendments, if any, in writing at this meeting, and then she would invite Members to consider such proposed amendments.

11. Mr CHAN Chi-chuen enquired about whether he could move a motion that the debate on this item be now adjourned. Mr LAM Cheuk-ting considered that the minutes should not be confirmed until the next HC meeting, so as to allow more time for Members to submit their proposed amendments.

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12. Mr Jeffrey LAM said that such expressions as "Members of the pro-democracy camp" and "Members of the pro-establishment camp" had also been used in the past. Dr Junius HO said that he objected to withholding the decision on confirmation of the minutes of the HC meeting on 3 May 2019 until the next meeting. He considered that as Members did not submit any proposed amendments in writing before this meeting, the Chairman should put to vote on whether the minutes be confirmed. Mr Steven HO considered it appropriate to request Members to submit proposed amendments in writing. He said that although he had no strong view as to whether the minutes should be confirmed at this meeting or the next meeting, he was concerned how to deal with the situation where the proposed amendments were not agreed to by all Members.

13. The Chairman said that if Members had different views on any proposed amendments to the minutes, she would follow the past practice and put to vote the question as to whether such proposed amendments be adopted.

14. As no written proposed amendment was received and not all Members agreed to the minutes, the Chairman put to vote the question as to whether the minutes of the 21st meeting of the House Committee held on 3 May 2019 be confirmed. The Chairman ordered a division.

15. During the ringing of the division bell, the Chairman, in response to Mr LEUNG Yiu-chung's enquiry, explained that if HC agreed to the question put, the minutes would be confirmed and no amendment could be made. Mr CHU Hoi-dick, Mr Charles MOK, Mr LAM Cheuk-ting and Mr Jeremy TAM expressed objection to deciding whether to confirm the minutes by voting. These Members expressed a similar view that if there were factual errors in the minutes, it would be absurd not to allow Members to propose amendments. Mr Paul TSE, however, held the view that Members should follow the practice that any proposed amendments should be submitted in writing before the meeting at which the relevant minutes were to be confirmed.

The following Members voted in favour of the question:

Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr

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LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Mr Vincent CHENG and Ms CHAN Hoi-yan.

(38 Members)

The following Members voted against the question:

Mr LEUNG Yiu-chung, Prof Joseph LEE, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Dr Pierre CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin.

(20 Members)

The following Member abstained from voting:

Mr Tony TSE.

(1 Member)

16. The Chairman declared that 38 Members voted for and 20 Members voted against the question and one Member abstained from voting. The Chairman declared that the question was supported, adding that the minutes of the 21st meeting of the House Committee held on 3 May 2019 were confirmed.

Timing for confirmation of the verbatim transcript of the Special HC meeting concerned

17. Mr CHAN Chi-chuen enquired whether the verbatim transcript of the special HC meeting concerned would be made available for Members' consideration and confirmation at the next meeting on 17 May 2019. Ms Claudia MO said that as agenda item IX "Handling of the request of 24 Members to move a motion of no confidence in the Chairman of the House Committee" was related to the proceedings of the special HC meeting concerned, she considered that the Secretariat should have made the verbatim transcript ready for Members' consideration before this meeting.

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18. At the invitation of the Chairman, the Clerk said that the minutes of a regular HC meeting would usually be made available for Members' consideration and confirmation at the next regular HC meeting. In accordance with the past practice, the verbatim transcript for a special HC meeting would be provided for Members' consideration as soon as possible. Given that the special HC meeting concerned had lasted for more than four hours, it was expected that the verbatim transcript would be issued to Members before the next HC meeting on 17 May 2019.

Request for preparing a verbatim transcript for the proceedings of this HC meeting

19. Before the meeting proceeded to agenda item II, Mr CHAN Chi-chuen requested that a verbatim transcript be prepared for the proceedings of this HC meeting. Expressing support for Mr CHAN, Mr Jeremy TAM requested the Chairman to put to vote the question as to whether Mr CHAN's request should be agreed to.

20. Mr AU Nok-hin, Mr CHAN Chi-chuen and Dr CHENG Chung-tai expressed support for preparing a verbatim transcript for the proceedings of this meeting. Mr AU said that he queried whether the proceedings of the past few HC meetings (including the special HC meeting concerned) were conducted in accordance with RoP. He considered that there might be legal challenges in the future, and therefore, it would be desirable if a verbatim transcript was prepared for the proceedings of this meeting. Mr CHAN said that given the breakdown of mutual trust, as shown by the earlier discussion on the minutes of the last meeting, he considered that a good way to minimize disagreement was to prepare a verbatim transcript for the proceedings of this meeting. Dr CHENG, referring to the comments of Mr Andrew WONG, a former President of LegCo, said that on 6 May 2019, Mr James TO should have been legally elected as the chairman of the Bills Committee concerned. Dr CHENG considered it problematic that there was no such information in the "Position Report on Bills Committees and subcommittees" ("the Position Report") under agenda item VIII, and he therefore considered it necessary to prepare a verbatim transcript for the proceedings of this meeting.

21. Ms Alice MAK and Mr Paul TSE were concerned about the manpower requirement for preparing verbatim transcripts for proceedings of HC meetings. Ms MAK said that while she had no strong view on the suggestion of preparing a verbatim transcript for the proceedings of this

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HC meeting, she considered that if preparing verbatim transcripts was to become a practice, it would be necessary to seek additional manpower resources for the Secretariat. Mr TSE expressed concern that Members might in future frequently request that verbatim transcripts be prepared. He enquired about the difference in manpower requirement between preparing verbatim transcripts and minutes of meetings.

22. At the invitation of the Chairman, the Clerk said that the manpower requirement for preparing verbatim transcripts and minutes was different as the former were verbatim records of the proceedings and the latter a summary of major points of discussion and decisions made at meetings. The Clerk further said that the Secretariat would have adequate capacity for preparing a verbatim transcript for the proceedings of this meeting, if necessary.

23. Dr Junius HO said that verbatim transcripts should be prepared only on a need basis, and he did not see any need to do so for this meeting. Therefore, Dr HO objected to such a request.

24. The Chairman said that as Members had different views, in accordance with the past practice, she would put to vote the question as to whether HC agreed that verbatim transcript be prepared for the proceedings of this HC meeting. The Chairman ordered a division.

The following Members voted in favour of the question:

Mr LEUNG Yiu-chung, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Dr Pierre CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin.

(18 Members)

The following Members voted against the question:

Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG

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Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Mr Vincent CHENG, Mr Tony TSE and Mr CHAN Hoi-yan.

(36 Members)

The following Members abstained from voting:

Mrs Regina IP and Ms YUNG Hoi-yan.

(2 Members)

25. The Chairman declared that 18 Members voted for and 36 Members voted against the question and two Members abstained from voting. The Chairman declared that the question was not supported.

II. Matters arising

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

26. The Chairman said that as there was nothing special in the last HC meeting on 3 May 2019 which the Chief Secretary for Administration ("CS") should be informed of, and having communicated with the Deputy Chairman, both the Chairman and the Deputy Chairman had agreed that there was no need to arrange a meeting with CS.

The Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Amendment Bill")

27. Mr LAM Cheuk-ting noted that on 9 May 2019, Mr CHIU Chui-cheng, the Deputy Minister of the Mainland Affairs Council in Taiwan, had clearly indicated that the Taiwan authorities could not ignore the risks that the human rights of Taiwanese people (who were going to or living in Hong Kong) might be infringed as a result of the passage of the Amendment Bill. Without the removal of the threats of Taiwanese people (who were going to or living in Hong Kong) being surrendered to the Mainland, the Taiwan authorities would not agree to the special surrender arrangements of the suspect in the Taiwan murder case. As the Taiwan authorities had stated clearly that they would not accept the surrender of the suspect in the Taiwan murder case under the special

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surrender arrangements as proposed in the Amendment Bill, there was no longer the so-called "urgency" as suggested by the Administration in taking forward the Amendment Bill. Mr LAM asked the Chairman and the Deputy Chairman to relay his views to CS. Dr Helena WONG considered that the Administration should review its decision in response to the position stated by the Taiwan authorities. Pointing out that there were 130 000 Hong Kong citizens to take to the streets in protest of the Amendment Bill, she wondered whether the Administration would only consider withdrawing the Amendment Bill if the mass procession on 1 July 2003 with 500 000 people participating in it took place again. Dr WONG considered that the Administration should respond to the public and requested the Chief Executive ("CE") and CS to seriously consider withdrawing the Amendment Bill.

28. Ms Claudia MO said that CS had complained to the media that his response to the mass procession which took place on 28 April 2019 had been taken out of context. She wondered whether CS's remark about "the number of persons" participating in the said procession was to provoke Hong Kong citizens or it had a different meaning. In her view, such remark would only serve to incite more Hong Kong citizens to take to the streets in protest of the Amendment Bill. Mr AU Nok-hin said that according to the remark made by Mr CHIU Chui-cheng, the Deputy Minister of the Mainland Affairs Council in Taiwan, the passage of the Amendment Bill would not only seriously infringe the human rights of Taiwanese people (who were going to or living in Hong Kong), but also those of Hong Kong citizens. Mr AU further said that many countries had expressed deep concerns about "one country, two systems" as well as the human rights situation in Hong Kong, but CS had, in response, indicated that those concerns were "unwarranted, unfounded and unsubstantiated". He urged CS to pay attention to his attitude when he gave response to the international community and to understand whether the human rights situation in Hong Kong was not a real concern to the Taiwan authorities when communicating with them. Mr CHU Hoi-dick said that the Bills Committee concerned had already elected its chairman and deputy chairman at its meeting on 6 May 2019 which was convened by Mr James TO, the member who had the highest precedence among members of the Bills Committee. However, the Administration had not arranged any government officials to attend the said meeting. Mr CHU hoped that the Deputy Chairman, who was also elected as the deputy chairman of the Bills Committee concerned, could urge CS not to let this happen again in future meetings of the Bills Committee concerned.

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29. Dr KWOK Ka-ki said that Hong Kong citizens felt disappointed about CS's remark that the number (i.e. 130 000) of Hong Kong citizens who took to the streets on 28 April 2019 in protest of the Amendment Bill was not important. He hoped that CS could relay to CE that the better approach for the Administration to handle the Amendment Bill was to listen to the views expressed by Hong Kong citizens, which the Administration had not done so. Mr Alvin YEUNG said that during the CE's Question and Answer Session on 9 May 2019, CE had openly commented or criticized that the CEs of the former terms of Government were all "ostriches". In this light, he considered that CS should assist CE in writing to the CEs, the CSs, the Secretaries for Justice and the Secretaries for Security of the former terms of Government in order to strongly condemn all of them for being "ostriches" because the above former officials had left out some of their jobs and were in dereliction of their duties so that the current Administration needed to plug the loophole. The Deputy Chairman reiterated that at the last meeting with CS, he had clearly requested CS to precisely respond to the aspirations made by over a hundred thousand Hong Kong citizens who took to the streets on 28 April 2019, and to retract his remark about "the number of people was not an issue". CS had already undertaken to clearly relay the relevant views to CE. The Deputy Chairman further said that he would, at the next meeting with CS, clearly relay to CS all the views expressed by Members at this meeting and request CS to give an immediate response.

30. Mr WONG Kwok-kin and Mr HO Kai-ming took the view that if the Amendment Bill really put Taiwan people living in Hong Kong at risk, the Taiwan authorities should have asked those hundreds of thousands of Taiwan people who were living in the Mainland to return to Taiwan. Mr WONG expressed appreciation for CS as CS was not confused by the so-called "over a hundred thousand" people taking to the streets in protest of the Amendment Bill, and he also queried whether that number of people should be 22 800 instead. Mr WONG further said that he was confident that the Administration would properly communicate with the Taiwan authorities regarding the surrender of the suspect of the Taiwan murder case. Mr HO also expressed dissatisfaction with the two Members who claimed to be the chairman and the deputy chairman of the Bills Committee concerned.

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Views expressed by Members on other issues

31. Mr Jeremy TAM said that he noted that the remuneration of SG had increased by about 50% in a few years, i.e. from \$180,000 per month when he assumed office in 2012 to \$260,000 per month at present. While the remuneration of SG was approved by the Commission, given that the majority of members of the Commission came from the pro-establishment camp, the remuneration of SG was therefore allowed to be increased on a continual basis. Mr TAM further said that other than the Commission, the Administration was also responsible for approving funding applications relating to the LegCo's expenditure. He requested the Administration to duly perform its gatekeeping role when giving approval on the funding applications relating to the LegCo's expenditure.

32. Dr CHENG Chung-tai said that he had written to CS on 8 May 2019 and quoted a remark made in a report released by the US-China Economic and Security Review Commission under the United States Congress on 7 May 2019, which stated that the Amendment Bill, if passed, could potentially violate several key provisions of the United States-Hong Kong Policy Act of 1992. He had also asked CS whether he had an in-depth understanding of the above remark and whether the Administration had made any assessments on the impact on the financial situation and the livelihood of Hong Kong should the Amendment Bill be passed. Dr CHENG hoped that the Chairman and the Deputy Chairman could follow up the above issues at their next meeting with CS.

33. Ms Alice MAK expressed concern about the impact of the recent China-US relations on the underemployment of construction workers in Hong Kong. Besides, Ms MAK was also concerned about the criticisms recently directed at SG and staff members of the Secretariat. She considered that such criticisms amounted to workplace bullying on employees as far as these staff members were concerned. She considered that Members should have basic respect to all staff members of the Secretariat, and that the Administration should give consideration to legislating for protecting employees from workplace bullying.

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III. Business arising from previous Council meetings

(a) Legal Service Division report on bill referred to the House Committee in accordance with Rule 54(4)

Franchised Taxi Services Bill

(LC Paper No. LS71/18-19)

34. At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the report prepared by LSD on the Bill.

35. Mr LEUNG Yiu-chung, Mr Frankie YICK, Mr Charles MOK, Mr CHAN Han-pan, Mr LAU Kwok-fan, and Mr Jeremy TAM considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Mr LEUNG Yiu-chung, Mr Tommy CHEUNG, Mr Frankie YICK, Mr Charles MOK, Mr CHAN Han-pan, Mr LAM Cheuk-ting, Mr LUK Chung-hung, Mr LAU Kwok-fan, and Mr Jeremy TAM.

(b) Legal Service Division report on subsidiary legislation gazetted on 3 May 2019 and tabled in Council on 8 May 2019

(LC Paper No. LS69/18-19)

36. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the seven items of subsidiary legislation (i.e. L.N. 64 to L.N. 70) which were gazetted on 3 May 2019 and tabled in Council on 8 May 2019. LA said that LSD was scrutinizing the legal and drafting aspects of L.N. 66 to L.N. 70 and would report further, if necessary.

37. Mr AU Nok-hin considered it necessary to form a subcommittee to study the District Councils Ordinance (Amendment of Schedule 7) Order 2019 (L.N. 64) and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2019 (L.N. 65) in detail. Members agreed. Mr LAU Kwok-fan and Mr AU Nok-hin agreed to join the proposed subcommittee.

38. Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHU Hoi-dick and Mr AU Nok-hin considered it necessary to form a subcommittee to study the following five items of subsidiary legislation in detail: the Protected Places (Amendment) Order 2019 (L.N. 66), the Protected Places (Safety) (Authorized Guards) (Amendment) Order 2019 (L.N. 67),

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the Military Installations Closed Areas (Amendment) Order 2019 (L.N. 68), the Shipping and Port Control (Amendment) Regulation 2019 (L.N. 69) and the Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2019 (L.N. 70). Members agreed. The following Members agreed to join the subcommittee: Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHU Hoi-dick and Mr AU Nok-hin.

39. Members noted that the deadline for amending the above seven items of subsidiary legislation would be the Council meeting of 5 June 2019, or that of 26 June 2019 if extended by a resolution of the Council.

IV. Further business for the Council meeting of 15 May 2019

(a) Tabling of papers

Report No. 17/18-19 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments
(LC Paper No. CB(2)1386/18-19)

40. The Chairman said that the Report covered one item of subsidiary legislation (i.e. Trade Descriptions Ordinance (Amendment of Schedule 1) Notice 2019) and the period for amending it would expire at the Council meeting of 15 May 2019. No Member had indicated intention to speak on the subsidiary legislation.

Arrangements for questions to be asked at the Council meeting of 15 May 2019 and thereafter

41. The Chairman said that in accordance with rule 7(e) of the House Rules, there would be no arrangements for Members to put oral questions to the Government at the Council meetings for debate on the Appropriation Bill. The Chairman informed Members that as it was uncertain as to when all the proceedings on the Appropriation Bill 2019 would be completed, applications for oral questions to be asked at the Council meeting of 15 May 2019 and thereafter would be dealt with in accordance with the arrangements adopted in the past, and the Secretariat would liaise with Members asking oral questions on the relevant arrangements. Members noted the arrangements.

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(b) **Members' motions on subsidiary legislation/instrument**

Proposed resolution to extend the period for amending subsidiary legislation:

Proposed resolution to be moved by Hon MA Fung-kwok in relation to the Entertainment Special Effects (Fees) (Amendment) Regulation 2019
(*LC Paper No. CB(3)594/18-19*)

42. The Chairman said that the purpose of the above proposed resolution was to extend the period for amending the subsidiary legislation to the Council meeting of 5 June 2019.

V. The Chief Executive's Question Time on 22 May 2019

43. The Chairman said that the CE's Question Time would be held from 11:00 am to 11:30 am, and the regular Council meeting of 22 May 2019 would be held immediately after the CE's Question Time ended.

VI. Business for the Council meeting of 22 May 2019

(a) **Questions**
(*LC Paper No. CB(3)588/18-19*)

44. 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**

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

(c) **Government motion**

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

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(d) Members' motions

- (i) Motion on "Vote of no confidence in the Chief Executive" to be moved by Hon Andrew WAN**
(LC Paper No. CB(3)589/18-19)
- (ii) Motion on "Supporting elderly persons aged between 60 and 64 on all fronts" to be moved by Hon KWOK Wai-keung**
(LC Paper No. CB(3)593/18-19)

47. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above two motions would be Wednesday, 15 May 2019.

VII. Reports of Bills Committees and subcommittees

Report of the Bills Committee on Trade Marks (Amendment) Bill 2019

(LC Paper No. CB(1)965/18-19)

48. Mr WONG Ting-kwong, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Mr WONG said that the Administration would propose an amendment to the proposed new section 96F(2)(a) under clause 15 of the Bill to clarify the intent of the provision. Mr WONG further said that the Bills Committee raised no objection to the proposed amendment and would not propose any amendments to the Bill.

49. Mr WONG advised that the Administration had, through the Secretariat, informed the Bills Committee that it had planned to resume the Second Reading debate on the Bill at a future Council meeting, to which the Bills Committee raised no objection.

VIII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)1385/18-19)

50. The Chairman said that as at 9 May 2019, there were 13 Bills Committees, eight subcommittees under HC and seven subcommittees on policy issues under Panels in action. Five subcommittees on policy issues were on the waiting list.

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51. Referring to item 11 in List A of the Position Report, Dr CHENG Chung-tai said that the Bills Committee concerned had already elected its chairman and deputy chairman at its meeting on 6 May 2019 which was convened by Mr James TO, the member who had the highest precedence among members of the Bills Committee. He requested the Secretariat to explain why information on the election of the chairman and deputy chairman of the Bills Committee concerned had not been included in the Position Report. Dr CHENG also asked LA to clarify whether or not the Secretariat had the power to determine the legitimacy of the said meeting. Pointing out that SG had claimed that the Secretariat had all along maintained political neutrality, Mr AU Nok-hin queried why both the legal adviser to the Bills Committee concerned and the Clerk to the Bills Committee concerned had not rendered their services at the said meeting.

52. Mr CHU Hoi-dick was dissatisfied that the Secretariat had requested members of the Bills Committee concerned to consider and make a decision, by circulation of paper, the HC guidelines. In his view, the Secretariat did not have any powers to do so. According to his understanding, it was stipulated in RoP that if a matter for the decision of a committee was considered by way of circulation of paper to its members, such matter had to be referred for decision at a meeting of the committee if any member had signified disapproval of the matter. Mr CHU requested LA to clarify whether she had agreed to such an arrangement. Mr CHAN Chi-chuen said that SG had issued a circular on 5 May 2019 to all Members to explain that the Handbook for Chairmen of Bills Committees was not applicable as the Bills Committee concerned had not yet elected its chairman. However, SG had failed to state exactly which Rule(s) of RoP had stipulated that a Bills Committee could consider and make a decision on a matter by way of circulation of paper to its members even though some members had clearly indicated their request for discussion of the matter at a meeting.

53. Mr Paul TSE said that to his understanding, some Members had already appointed a solicitors' firm to issue a letter to SG in relation to issues about the Bills Committee concerned. He considered that Members should not pressurize SG or any staff member of the Secretariat to respond to related questions at open meetings, as this might prejudice their rights in subsequent legal proceedings. In his view, for the sake of fairness, staff members of the Secretariat should be free to decide whether they wished to respond to such questions from Members.

Action

54. At the invitation of the Chairman, SG said that he had provided a detailed account, vide a circular issued on 5 May 2019 to all Members, on issues pertaining to the arrangements for members of the Bills Committee concerned to consider the HC guidelines, and he had nothing to supplement. LA said that a solicitors' letter was sent to SG. Given that one of the subjects of dispute stated in the solicitors' letter concerned the circulation of papers about the HC guidelines to members of the Bills Committee concerned, LA said that it might not be appropriate to comment on this matter at the present stage.

55. The Chairman said that she noted that some Members had different views regarding the Position Report and their views would be recorded in the minutes of meeting.

IX. Handling of the request of 24 Members to move a motion of no confidence in the Chairman of the House Committee
(*LC Paper No. CB(2)1396/18-19(01)*)

56. The Chairman said that this item was to handle the request from 24 Members, including the Deputy Chairman, to move a motion of no confidence in the Chairman of HC (i.e. herself) ("the no confidence motion"). The Chairman further said that as HC had not handled any request from Members to move a motion of no confidence in the Chairman of HC before, it would be more appropriate for HC to first consider in what manner the request from the 24 Members should be handled. Considering that it might give rise to concerns about role conflict if the discussion relating to the no confidence motion was presided over by her, therefore, in her view, it might be more appropriate for her not to preside over the discussion. However, if the discussion was presided over by any of the 24 Members (including the Deputy Chairman) who had requested to move the no confidence motion, this would likewise give the public a perception of role conflict. As such, the Chairman invited Members to consider electing a Member from among themselves to preside over the discussion. The Chairman further advised that if Members had no objection to the above proposed arrangement, she would suggest inviting the Member with the highest precedence among those who were present at this meeting but not one of those 24 Members, i.e. Mr Tommy CHEUNG, to preside over the election of a Member to preside over the discussion relating to the no confidence motion ("the election concerned").

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57. Mr CHAN Chi-chuen considered that Dr CHENG Chung-tai was an appropriate person to preside over the election concerned, or that the Member to preside over the discussion relating to the no confidence motion could be determined by drawing lots. Expressing a similar view, Mr Gary FAN said that the Chairman had favoured those 40 Members in handling their request for HC to provide guidelines to the Bills Committee concerned in accordance with RoP 75(8) and as such the Chairman would have conflict of interest in presiding over the election concerned and also the discussion relating to the no confidence motion. Mr FAN further said that the 40 Members who had requested HC to consider their proposal of providing guidelines to the Bills Committee concerned should not preside over the discussion concerned because they had conflict of interest as well. Mr CHU Hoi-dick considered that Mr LEUNG Yiu-chung should preside over the election concerned as Mr LEUNG was the Member with the highest precedence among those present at the meeting. Mr CHU did not see any problem for Mr LEUNG to do so although Mr LEUNG was one of the 24 Members who had requested to move the no confidence motion. Mr CHU added that Mr James TO, who had expressed objection to the Amendment Bill, had also presided over the election of the chairman of the Bills Committee concerned.

58. Mr Tommy CHEUNG, Mr Holden CHOW and Mr CHAN Han-pan considered that the Chairman's suggestion concerning the election of a Member to preside over the discussion relating to the no confidence motion was made out of goodwill and to avoid any perception of role conflict. Mr Tommy CHEUNG pointed out that there was no provision in RoP that prohibited a Member with a role conflict from presiding over a meeting. Should Members suggest that any of those 24 Members who had requested to move the no confidence motion to preside over the discussion concerned, he would consider it more appropriate for the Chairman to do so. Echoing Mr Tommy CHEUNG's view, Mr CHEUNG Kwok-kwan said that Mr Andrew WONG, a former President, had also presided over the debate on a motion concerning his suitability to continue being the President of LegCo. Mr CHEUNG Kwok-kwan also said that if Mr CHU Hoi-dick considered it appropriate for Mr LEUNG Yiu-chung, who was one of the 24 Members requesting to move the no confidence motion, to preside over the election concerned, it should be equally appropriate for the Chairman to do so. Mr Steven HO said that HC should elect a Member to preside over the discussion relating to the no confidence motion immediately. Mr CHAN echoed Mr HO's view, adding that Mr Tommy CHEUNG could be considered for that role.

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59. Mr AU Nok-hin and Mr HUI Chi-fung said that they had no trust or confidence in the Chairman and considered that it was not appropriate for her to preside over the discussion relating to the no confidence motion. Mr AU commented that the Chairman had misinterpreted RoP 43, which was related to application of the rules in Part H of RoP concerning rules of speaking, in presiding over HC meetings. Mr HUI criticized the Chairman for abusing her powers as the Chairman of HC and adopting double standards in discharging her role. Mr HUI suggested that the discussion relating to the no confidence motion could be presided over by Dr CHENG Chung-tai as Dr CHENG was not among the 24 Members who had requested to move the no confidence motion and not a Member from the pro-democracy camp. Ms Claudia MO said that the Chairman had indicated in her earlier remarks that she would not preside over the discussion concerned in order to avoid any potential perception of role conflict. She queried why Mr Tommy CHEUNG would still suggest the Chairman to preside over the discussion concerned.

60. Dr CHENG Chung-tai said that he was not among the 24 Members who had requested to move the no confidence motion. Furthermore, he was neither a Member from the pro-democracy camp, the pro-establishment camp nor from any functional constituency. He therefore considered himself to be the right person to preside over the discussion relating to the no confidence motion. He said that lot drawing was also a viable alternative to determine which Member should preside over the discussion concerned. However, both the 24 Members who had requested to move the no confidence motion as well as the 40 Members who had requested HC to consider their proposal of providing guidelines to the Bills Committee concerned should not participate in the lot drawing.

61. The Chairman reiterated that there was no provision in RoP that would prohibit her from presiding over the discussion relating to the no confidence motion. To avoid concerns about role conflict and minimize disputes, she had invited Members to consider electing a Member to preside over the discussion concerned. However, Members had given different views on her proposed arrangement and made proposals on who would preside over the discussion concerned. In light of this, she would put to vote the following three proposals: (a) "That this Committee agrees that Hon Tommy CHEUNG to preside over the discussion relating to the motion of no confidence in the Chairman of the House Committee"; (b) "That this Committee agrees that Dr Hon CHENG Chung-tai to preside over the discussion relating to the motion of no confidence in the

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Chairman of the House Committee"; and (c) "That this Committee agrees that the Member to preside over the discussion relating to the motion of no confidence in the Chairman of the House Committee shall be determined by drawing lots". The Chairman said that the proposals would be dealt with in the above order and as the proposals were mutually exclusive, if any one of the three proposals was passed, the subsequent proposals would not be dealt with.

62. The Chairman put to vote the first proposal "That this Committee agrees that Hon Tommy CHEUNG to preside over the discussion relating to the motion of no confidence in the Chairman of the House Committee".

The following Members voted in favour of the proposal:

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Dr Junius HO, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Mr Vincent CHENG, Mr Tony TSE and Ms CHAN Hoi-yan.

(37 Members)

The following Members voted against the proposal:

Mr James TO, Mr LEUNG Yiu-chung, Prof Joseph LEE, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin.

(19 Members)

63. The Chairman declared that 37 Members voted for and 19 Members voted against the proposal and no Member abstained from voting. The Chairman declared that the proposal was supported.

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64. Mr Tommy CHEUNG then presided over the discussion relating to the no confidence motion. Mr CHEUNG said that he would arrange a special HC meeting for Members to discuss the no confidence motion, and would request the Secretariat after this meeting to check the time slots available for holding the special HC meeting. Mr CHEUNG further said that a circular would be issued afterwards under the instruction of the Chairman to request Members to indicate their availability. Mr CHAN Chi-chuen hoped that the special HC meeting could be held as soon as possible and at a time that most Members could attend. Mr CHEUNG responded that the special HC meeting would be arranged at an appropriate time to facilitate most Members to attend.

X. Any other business

65. There being no other business, the meeting ended at 4:07 pm.

Council Business Division 2
Legislative Council Secretariat
16 May 2019