

(English translation prepared
by the Legislative Council Secretariat
for Members' reference only)

(Letterhead of the Secretariat of Legislative Councillors of the Democratic Party)

10 October 2000

Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Chairman of the House Committee
The Legislative Council of Hong Kong

Dear Mrs CHOW,

**Proposal to set up a select committee
to inquire into the “opinion poll incident” and
the non-reappointment of Mr Tony FUNG
to the Council of the Chinese University of Hong Kong (CUHK)**

The independent Investigation Panel (the Panel) appointed by the University of Hong Kong (HKU) submitted a report in respect of the “Robert CHUNG’s incident” on 26 August 2000, in which judgements were made on the testimony given by the major witnesses. The Democratic Party (DP) considers that the Panel has fulfilled its obligations conscientiously within its permissible remit by inquiring into the circumstances surrounding the allegations of inhibition of academic freedom in HKU. Therefore, the DP holds the view that there is no need to investigate into matters which the Panel has already inquired into and on which conclusions have been drawn. However, the incident has not come to a full stop and in fact much remains to be ascertained in many aspects. The DP considers that for the following compelling reasons, a select committee must be set up in the new term of the Legislative Council to conduct an inquiry along the following directions:

1. The truth not fully revealed as the Chief Executive (CE) declined to testify before the Panel appointed by HKU

The “opinion poll incident” was triggered by the articles of Dr Robert CHUNG published in the South China Morning Post and the Hong Kong Economic Journal on 7 July 2000. As things developed, it finally led to the setting up of the Panel by HKU for an independent inquiry. The remit of the Panel was clearly defined at the outset of its formation. With the exception of officers of HKU who were required to give evidence, non-university personnel attended the hearings on a voluntary basis only. As the CE Mr TUNG Chee-hwa had stated his intention of not attending the hearings, the Panel had no statutory power to summon him to give evidence. However, the DP is of the

view that the non-attendance of the CE at the hearings had simply rendered the Panel unable to dig out all the facts surrounding the incident.

At the hearing of the Panel held on 15 August, Professor CHENG Kai-ming, Pro-Vice-Chancellor of HKU, and Professor Felice LIEH-MAK, Head of the University's Department of Psychiatry, both testified that when they met Professor CHENG Yiu-chung, the then Vice-Chancellor of HKU on 11 May 1999, he told them of his meeting with the CE Mr TUNG Chee-hwa, during which the CE had indicated his concern for the negative effects of the surveys conducted by Dr Robert CHUNG on the popularity of the Government and the CE. In response to their testimony, the CE's Office issued a statement on the same day, saying that "the CE and the Vice-Chancellor of HKU did not discuss opinion polls conducted by HKU during their meetings."

Since the CE's Office only issued a statement of clarification, and the CE Mr TUNG Chee-hwa did not testify before the Panel, the hearings could not bring the truth to light. As a matter of fact, Mr TUNG Chee-hwa and Professor CHENG Yiu-chung have met three times since 1997. The question of whether concern for the polling work was mentioned in these meetings is the crux of the issue. This question warrants an investigation as it will throw light on whether the Government of the Hong Kong Special Administrative Region has interfered with or inhibited academic freedom of HKU. Therefore, we consider it necessary to set up a select committee and invite the CE to testify before the committee in order to remove doubts in this aspect.

2. Involvement of parties outside HKU in the "opinion poll incident"

While the remit of the Panel appointed by HKU covers merely its internal affairs, the parties involved in the incident actually are not confined to HKU. Following Dr Robert CHUNG's allegation made in his article that the CE had interfered with his polling work through a "third party", Dr Timothy WONG of CUHK also indicated that Mr Andrew LO, Senior Special Assistant in the CE's Office had discussed with him and Professor LAU Siu-kai the polls conducted by CUHK. Furthermore, Professor Arthur LI, Vice-Chancellor of CUHK confirmed at the press conference on 24 July 2000 that he had a meeting with Mr LO and when matters regarding the polling work conducted by CUHK were raised for discussion at the meeting, he had suggested Mr LO approach Professor LAU Siu-kai and Dr Timothy WONG for enquiries about such matters. Such being the case, the whole incident has also involved parties outside HKU, including the CE Mr TUNG Chee-hwa, Mr Andrew LO, Senior Special Assistant in the CE's Office, Professor Arthur LI, Vice-Chancellor of CUHK as well as Professor LAU Siu-kai and Dr Timothy WONG of CUHK. Among them, only Mr Andrew LO attended the hearings of the Panel to give testimony in respect of matters involving HKU. In this connection, we are of the view that as the remit of the Panel is confined to matters involving HKU only, a select committee should be formed by this Council to summon the people embroiled to give evidence for the purpose of inquiring into matters not involving HKU.

3. Working relationship between the CE and Mr Andrew LO in the incident

In the course of the polling row, the CE's Office and the CE Mr TUNG Chee-hwa denied, by way of a written and oral statement respectively, having asked personally or authorized anyone to ask Dr Robert CHUNG to stop his research and polling work. Moreover, Mr Andrew LO indicated both in his statement issued on 23 July and his testimony given at a hearing of the Panel that he had not reported to the CE any matters in relation to his meetings with the Vice-Chancellor of HKU following his visits to the Vice-Chancellors of HKU and CUHK. The Panel, however, squarely described Mr LO as "a poor and untruthful witness" in its report dated 26 August. As such, we consider it necessary to investigate and ascertain whether there is any working relationship between Mr TUNG Chee-hwa and Mr Andrew LO in this matter.

4. Non-reappointment of Mr Tony FUNG to the Council of CUHK

Amid the polling row, Mr Andrew LO was reported in an article carried by the Asian Wall Street Journal dated 21 July 2000 to have voiced opposition to the proposed reappointment of Mr Tony FUNG to the Council of CUHK. The CE Mr TUNG Chee-hwa had personally made a phone call to Professor Arthur LI, Vice-Chancellor of CUHK about this matter. It was reported that Mr FUNG was not reappointed for reasons of his assisting a certain group to list on the stock market. Irrespective of the validity of what was reported, it is a fact that Mr FUNG's term of appointment was cut from the usual three years to one year afterwards and he will not be reappointed upon the expiry of his term in October 2000. While it is stipulated under Statute 11 of the Chinese University of Hong Kong Ordinance that six members of the Council should be nominated by the Chancellor of the University, i.e. the CE, appointment for a one-year term had been rare. We are of the view that as this matter also involves the question of whether Mr Andrew LO and Mr TUNG Chee-hwa have interfered with university affairs for political reasons, it should also be included into the remit of the proposed select committee for inquiry.

In respect of the above proposals, the DP has drafted the wording of a resolution for the appointment of a select committee as annexed for Members' consideration.

(Martin LEE Chu-ming)
Legislative Council Member of
the Democratic Party

Rules of Procedure of the Legislative Council of the Hong Kong
Special Administrative Region

Resolution

(Under Rule 78(1) of the Rules of Procedure of the Legislative
Council of the Hong Kong Special Administrative Region)

RESOLVED that a select committee be appointed to inquire into
the following:

- (a) the meetings and discussions held between the Chief Executive, Mr. Tung Chee Hwa, and Professor Cheng Yiu Chung, the former Vice Chancellor of the University of Hong Kong, during which the polls conducted by Dr. Robert Chung on the popularity of the Chief Executive were mentioned, and related issues;
- (b) the circumstances surrounding the meetings between Mr. Andrew Lo and Professor Arthur Li, the Vice Chancellor of the Chinese University of Hong Kong, and related issues;
- (c) the working relations and coordination between the Chief Executive, Mr. Tung Chee Hwa, and Mr. Andrew Lo in the latter's meetings with the Vice Chancellors of both the University of Hong Kong and the Chinese University of Hong Kong, and related issues;
- (d) the involvement of Mr. Andrew Lo and/or the Chief Executive and/or the Chief Executive's Office in cutting short the term of appointment of Mr. Tony Fung to the Council of the Chinese University of Hong Kong, and related issues,

and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap.382) to exercise the powers conferred by section 9(1) of that Ordinance.