

立法會
Legislative Council

LC Paper No. CB(2)2057/10-11
(The minutes have been seen by
the Administration and
The University of Hong Kong)

Ref : CB2/BC/2/10

**Bills Committee on
University of Hong Kong (Amendment) Bill 2010**

**Minutes of the fourth meeting
held on Tuesday, 17 May 2011, at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Hon Cyd HO Sau-lan (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Audrey EU Yuet-mee, SC, JP
Hon Starry LEE Wai-king, JP
Hon Tanya CHAN

Members absent : Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Dr Hon PAN Pey-chyou

Public Officers attending : Agenda item II
Ms Amy WONG
Principal Assistant Secretary (Higher Education),
Education Bureau
Miss Joyce CHAN Nga-sze
Assistant Secretary-General (Quality Assurance),
University Grants Committee

Attendance by invitation : Agenda item II

The University of Hong Kong

Professor TSUI Lap-chee
Vice Chancellor and President

Professor Roland T CHIN
Deputy Vice-Chancellor and Provost

Professor Johannes M M CHAN
Dean of Faculty of Law

Mr Henry WAI
Registrar

Ms Katherine MA
Director of Communications

Ms Dora YUE
Senior Assistant Registrar in the Registry

Mrs Rebecca CHING
Assistant Registrar in the Registry

Clerk in attendance : Ms Amy YU
Chief Council Secretary (2)6

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Judy TING
Council Secretary (2)6

Ms Carmen HO
Legislative Assistant (2)6

I. Confirmation of minutes

[LC Paper Nos. CB(2)1118/10-11 and CB(2)1381/10-11]

The two sets of minutes of the meetings held on 18 January and 9 February 2011 were confirmed.

II. Meeting with The University of Hong Kong and the Administration

[LC Paper Nos. CB(2)1746/10-11(01) to (03)]

2. The Chairman informed the meeting that Dr David LI, Member in charge of the Bill, was out of town and could not attend the meeting.
3. The Bills Committee deliberated (index of proceedings attached at **Annex**).
4. Members noted the joint letter dated 9 May 2011 from the Academic Staff Association of The University of Hong Kong and the University of Hong Kong Employees Union [LC Paper No. CB(2)1746/10-11(03)] indicating their support in principle for the Bill, on the understanding that The University of Hong Kong ("HKU") would consider granting certain rights currently enjoyed by "Teachers" (such as membership of Faculty Board and Board of Examiners, rights to nominate and vote for Department Headship/Faculty Board Chairmanship/Senate members) to academic-related staff when they were given the new Lecturer I/II/III titles.

Legislative intent of having five Legislative Council ("LegCo") Members in the Court of HKU

5. In response to members' request made at the last meeting, Professor Johannes CHAN, Dean of Faculty of Law, briefed members on the background to and the legislative intent of the provision in the University of Hong Kong Ordinance (Cap. 1053) for having five LegCo Members in the Court as detailed in HKU's paper [LC Paper No. CB(2)1746/10-11(02)].
6. Professor Johannes CHAN elaborated that in 1953, Sir Ivor Jennings and Dr D W Logan were invited to review the constitution, function and financial requirements of the University. The Court of HKU at the time enjoyed wide powers, including the power to veto decisions made by the Council and the Senate, conferring honorary degrees, establishing teaching positions, formulating teaching and research directions, and setting up scholarships. All Executive and LegCo Members and various Government officials were then ex-officio members of the Court.
7. Professor Johannes CHAN further said that Sir Ivor Jennings and Dr Logan concluded from the review that changes should be made to the powers and composition of the Court with a view to conferring the University with a greater degree of autonomy. Subsequent to the review, the University Bill was presented to LegCo in 1958 with one of its main objects being the conferment upon the University greater autonomy in the

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management of its affairs. Major changes were made to the composition of the HKU Court including, inter alia, the provision of the present membership category of five members from LegCo. Also the powers of the Court had been reduced whereas those of the Council and the Senate had been increased. The Council had since then exercised its increased powers while the Court had continued to undertake its role in recommending Ordinance and Statutory instruments and the approving of the University's annual accounts, etc. The fundamental functions of the Court and Council of HKU had not been changed since 1958.

8. Responding to members' enquiry raised at the previous meeting, Assistant Legal Adviser 1 confirmed that any change to the composition of the Court and Council of HKU necessitated amendments to Statutes XV and XVIII respectively.

LegCo representation in the Council of HKU

9. Mr LEE Cheuk-yan said that LegCo Members, as representatives of the public, should be represented in the governing body of HKU. LegCo Members sitting on the governing bodies of universities would not interfere with the autonomy of the universities. Having regard to HKU's reservations about putting in place a mechanism in law to institutionalize LegCo Members' participation in its Council, Mr LEE suggested that HKU should consider establishing a convention of appointing LegCo Members to its Council and giving an undertaking in this regard. In his view, HKU should appoint two LegCo Members elected from among themselves to its Council as this could ensure a balanced participation of Members belonging to the pro-establishment camp and pan democratic camp.

10. Mr CHEUNG Man-kwong shared the view that HKU should consider establishing a convention of appointing LegCo Members to its Council. He trusted that HKU would follow such a convention after it had been established. In his view, it would be beneficial to have LegCo Members sitting on the Council of HKU as they could reflect the views of members of the public to the Council of HKU. He stressed that LegCo Members sitting on the governing bodies of universities had not and would not interfere with the management of the affairs of the universities. Mr CHEUNG further said that since HKU sought to change the role description of its Council as the supreme governing body of the University, it should uphold the original intent of having the representation of LegCo in its governing body. In his view, the number of LegCo Members to be appointed to the Council of HKU could be further discussed. He shared the view that HKU should give an undertaking on the appointment of LegCo Members to its Council.

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11. Mr James TO said that he had no strong view on whether there should be one or two LegCo Members sitting on the Council of HKU. However, he considered it necessary to have an assurance from HKU that there would be LegCo representation in its Council. In his view, it would be acceptable for HKU to make an open statement that it attached great importance to the appointment of LegCo Members to its Council. He indicated that he would object to the passage of the Bill should HKU fail to give any undertaking in this regard.

12. The Chairman said that the undertaking could be conveyed by Dr David LI during the resumption of the Second Reading debate on the Bill.

13. In response to the views of members, Professor TSUI Lap-chee, Vice Chancellor and President, said that the Council of HKU had discussed the issue of LegCo representation at three of its meetings. The Council did not object to having LegCo Members appointed to the Council in their personal capacities. There was no membership category for any constituencies and all members served the Council as trustees on an *ad personam* basis. The Council of HKU firmly upheld the principle of trusteeship and considered it inappropriate to add a membership category for a single body. LegCo Members could participate in the Council of HKU through the existing mechanism under several membership categories as set out in HKU's paper (LC Paper No. CB(2)945/10-11(02)) for the previous meeting. Indeed, the Chairman of the Council had indicated that he would actively consider appointing one LegCo Member in his/her personal capacity to the Council when dealing with membership appointments in future. HKU would need time to establish such a convention. He was not in a position to give any undertaking as requested by members at the meeting but undertook to relay members' views to the Council of HKU.

14. Mr Henry WAI, Registrar of HKU, supplemented that during the meetings of HKU's Council, the discussion had focused on the appointment of one LegCo Member to sit on the Council in his/her personal capacity through the existing mechanism when a vacancy arose. There was no discussion on the appointment of two LegCo Members elected from among themselves to the Council of HKU.

15. Professor Roland CHIN, Deputy Vice-Chancellor and Provost, said that only The Chinese University of Hong Kong had statutory provision for the election of LegCo Members to its Council. Of the remaining seven University Grants Committee-funded institutions, only the Hong Kong University of Science and Technology and the Hong Kong Polytechnic University had LegCo Members appointed in their personal capacity to the Councils of these Universities at present.

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16. The Chairman said that LegCo Members had all along been appointed in their personal capacities to governing bodies of universities. She requested HKU to provide a written response to the proposal of appointing LegCo Members elected from among themselves to the Council of HKU and confirm whether HKU would consider giving an undertaking to establish a convention of appointing LegCo Members to the Council of HKU.

Clause-by-clause examination of the Bill

17. The Bills Committee completed the clause-by-clause examination of the Bill.

18. The Bills Committee agreed to the following Committee Stage amendments ("CSAs") to the Bill proposed by HKU -

- (a) replacing the expression "protection on termination" in clause 5(1) of the English text of the Bill with "protection against termination"; and
- (b) inserting "and the status of a teacher" before "after the commencement of this Ordinance ..." in clause 5(2) of the Bill.

19. The Chairman requested HKU to provide a complete set of the draft CSAs for the Bills Committee's consideration.

Date of next meeting

20. Members agreed that the fifth meeting would be held on Thursday, 9 June 2011, at 4:30 pm.

(Post-meeting note: Upon the request of HKU and with the agreement of the Chairman, the fifth meeting had been rescheduled for Monday, 13 June 2011, at 10:45 am.)

III. Any other business

21. There being no other business, the meeting ended at 12:00 noon.

**Proceedings of the fourth meeting of the
Bills Committee on University of Hong Kong (Amendment) Bill 2010
on Tuesday, 17 May 2011, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000419	Chairman	Opening remarks The Chairman's advice that Dr David LI was out of town and could not attend the meeting.	
000420 - 000444	Chairman	Confirmation of minutes	
000445 - 000714	Chairman	The Chairman's reference to the letter dated 9 May 2011 from the Academic Staff Association of The University of Hong Kong ("ASAHKU") and the University of Hong Kong Employees Union ("HKUEU") [LC Paper No. CB(2)1746/10-11(03)] indicating support in principle for the Bill.	
000715 - 001001	Chairman ALA1 Mr Henry WAI	ALA1's provision of information on the legislative intent of the provision in The University of Hong Kong Ordinance (Cap. 1053) ("the Ordinance") for having five Legislative Council ("LegCo") Members in the Court of The University of Hong Kong ("HKU"). ALA1's confirmation that amendments to the composition of the Court and the Council of HKU necessitated amendments to Statutes XV and XVIII respectively. Mr Henry WAI's advice on the provisions in the Ordinance enacted in 1911.	
001002 - 001340	Professor TSUI Lap-chee Professor Johannes CHAN	Professor Johannes CHAN's provision of information on the review on the constitution, function and financial requirements of HKU conducted in 1953 by Sir Ivor Jennings and Dr D W Logan. Professor TSUI Lap-chee's elaboration on the views of ASAHKU, HKUEU and the University of Hong Kong Staff Association on the Bill.	

Time marker	Speaker	Subject	Action required
001341 - 002146	Professor TSUI Lap-chee Professor Johannes CHAN	<p>Professor TSUI Lap-chee's elaboration on the review conducted in 1953, the existing composition of the Council of HKU and the existing mechanism for LegCo Members to participate in the Council.</p> <p>Professor Johannes CHAN's elaboration on the background to the review in 1953 and the introduction of the University Bill of 1958.</p>	
002147 - 003206	Chairman Mr LEE Cheuk-yan Professor TSUI Lap-chee Mr Henry WAI	<p>Mr LEE Cheuk-yan's view that HKU should consider establishing a convention of appointing two LegCo Members to its Council and giving an undertaking in this regard.</p> <p>Professor TSUI Lap-chee's advice that there was no membership category for any constituencies in the Council of HKU and his elaboration on the principle of trusteeship.</p> <p>Mr Henry WAI's advice on the discussions of the Council of HKU on the appointment of one LegCo Member on an ad personam basis to the Council.</p> <p>Mr LEE Cheuk-yan's view on having two LegCo Members elected from among themselves appointed to the Council of HKU.</p> <p>The Chairman's provision of information on the election of LegCo Members from among themselves to the governing bodies of universities.</p>	
003207 - 004007	Mr CHEUNG Man-kwong Professor TSUI Lap-chee	Mr CHEUNG Man-kwong's expression of support for the proposal that HKU should establish a convention of appointing LegCo Members to its Council.	
004008 - 004434	Chairman Mr James TO Mr Henry WAI	<p>Mr James TO's expression of support for the proposal that HKU should establish a convention of appointing LegCo Members to its Council. His view that it was necessary for HKU to give an undertaking that there would be LegCo representation in its Council.</p> <p>The Chairman's advice that the undertaking could be conveyed by Dr David LI during the resumption of the Second Reading debate on the Bill.</p>	

Time marker	Speaker	Subject	Action required
		Mr Henry WAI's elaboration on the discussions of HKU's Council on the appointment of one LegCo Member to it.	
004435 - 005404	Chairman Mr LEE Cheuk-yan Mr Henry WAI Professor Roland CHIN Professor TSUI Lap-chee	Mr LEE Cheuk-yan's elaboration on his view on the appointment of two LegCo Members to the Council of HKU. Professor Roland CHIN's provision of information on the appointment of LegCo Members to the governing bodies of University Grants Committee-funded institutions. Professor TSUI Lap-chee's reiteration of the importance of upholding the principle of trusteeship in the membership of the Council of HKU.	
005405 - 005750	Chairman Professor Johannes CHAN ALA1	<u>Clause-by-clause examination of the University of Hong Kong (Amendment) Bill 2010</u> (with reference to the marked-up copy of the proposed amendments to the Ordinance prepared by the Legal Service Division) Clauses 1 and 2	
005751 - 005913	Chairman Professor Johannes CHAN	Clause 3	
005914 - 010112	Chairman Professor Johannes CHAN	Clause 4	
010113 - 010244	Chairman Professor Johannes CHAN	Clauses 5 and 6 ALA1's advice on HKU's agreement to amend clause 5(1) by replacing the expression "protection on termination" with "protection against termination". ALA's advice that as stated in HKU's letter dated 8 February 2011 [LC Paper No. CB(2)1066/10-11(01)], HKU would amend clause 5(2) by inserting "and the status of a teacher" before "after the commencement of this Ordinance ...".	
010245 - 010408	Chairman ALA1 Professor TSUI Lap-chee	ALA1's advice that the number of new academic titles set out in the English text and the Chinese text of clause 4(4) did not tally; while there were ten titles in the English text, there were only nine in the Chinese text.	

Time marker	Speaker	Subject	Action required
		Professor TSUI Lap-chee's confirmation that the Chinese title "講座教授" applied to both the English titles "Chairs" and "Professors", hence the difference in the number of titles between the English text and the Chinese text of clause 4(4).	
010409 - 010540	Chairman Clerk	The Chairman's request for HKU to provide the full set of its proposed draft Committee Stage amendments to the Bill. The Clerk's provision of information on legislative timetable.	HKU
010541 - 010826	Chairman Mr James TO	Date of next meeting	
010827 - 011110	Ms Starry LEE Mr Henry WAI	Ms Starry LEE's request for HKU to reiterate its stance on LegCo representation in its Council. Mr Henry WAI's reiteration of HKU's stance on the matter.	
011111 - 011416	Chairman Mr CHEUNG Man-kwong Mr LEE Cheuk-yan Mr James TO	The Chairman's request for HKU to provide its response to members' views and requests raised at the meeting. Mr James TO's reiteration of his objection to the passage of the Bill should HKU fail to give an undertaking to appoint LegCo Members to its Council.	HKU