

Advice on some procedural arrangements for Finance Committee meetings

Discussion on an agenda item

It is the responsibility of the Chairman of the Finance Committee (“FC”) to chair meetings of FC in accordance with the FC Procedure and its practices. Although not explicitly provided, in line with the principles set out in the Handbooks for chairmen of committees, this responsibility includes ensuring that the business on the agenda is transacted in a proper and efficient manner, and that all members have adequate opportunities to take part in the deliberations of the Committee.

Speaking time

2. Regarding the speaking time for individual members during the discussion of an agenda item at FC meetings, neither the Rules of Procedure (“RoP”) nor the FC Procedure has specific provision governing this matter. It has been a common practice of the FC that members are allowed to ask several rounds of questions on an agenda item. The FC Chairman usually allows each member five minutes for the first and second rounds of questions, and the five minutes include the time for the Administration's reply. The FC Chairman may allow less time for each member in the third and subsequent rounds of questions and where the time limit is to be changed, the FC Chairman would make it known to members in advance.

3. When the FC considered the items PWSC(2009-10)68, 69 and 72 relating to the Hong Kong section of Guangzhou–Shenzhen–Hong Kong Express Rail Link (XRL) project, at a series of meetings held between 18 December 2009 and 16 January 2010, the Chairman reduced the duration of the speaking time for each member progressively from five minutes for the first three rounds of questions to two minutes for the 11th to 19th rounds of questions, which included the time for the Administration's reply.

Curtailement of discussion

4. Unlike the practice and procedure in some overseas legislatures such as the United Kingdom, there is no provision in the RoP which allows discussion or debate on a motion to be curtailed through the moving of a motion “That the question be now proposed”. Even in the

case of UK, the Chair may decide not to put the question if it appears to him that the motion is an abuse of the rules of the House or an infringement of the rights of the minority. The Chair has a particular duty to protect the rights of the minority, but in the exercise of his impartiality neither must he lose sight of the rights of the majority nor of any dissident elements or factions submerged beneath the umbrella of a major party.

5. In the case of FC in Hong Kong, it is not uncommon that the Chairman of the FC would assess from the questions and answers to come to a view that there has been adequate discussion on the item and the discussion is about to come to a close after a last round of questions. For any information which is still outstanding, the Chairman may also direct that such information be provided after the meeting, or that the matter be referred to the relevant Panel(s) for follow-up action. The FC Chairman would then "draw a line", after which no member will be allowed to speak or ask questions and the item is put to vote.

6. As regards the specific question of whether the Chairman has the power to "draw a line", the answer is that there is no provision in the RoP nor the FC Procedure which gives the Chairman such power. However, as a matter of practice, the expression "draw a line" is a jargon used to describe the Chairman's indication that he would want the discussion to come to a close after having considered that there has been adequate discussion on the item and the amount of time that has been spent on the item.

Questions

7. Under Paragraph 43 of the FC Procedure, Members' questions on a proposal must relate directly to the contents of the agenda item. On wider questions of policy, members should raise them either in the full Council or at an appropriate Panel. Paragraph 32 of the FC Procedure also provides that the Chairman, after having called the attention of the Committee to the conduct of a member who persists in irrelevance or tedious repetition of his own or other members' arguments in the discussion, may direct him to discontinue his speech. Under Paragraph 31 of the FC Procedure, the Chairman is responsible for the observance of the rules of order in the Committee. His decision on a point of order shall be final.

Motions to express a view on an agenda item

8. Paragraph 37A of the FC Procedure provides that during the deliberation of an agenda item, prior to the question on it being put to vote, a member may propose a motion without notice to express a view on the agenda item. If the Chairman considers that the motion is directly related to the agenda item, he will ask members to indicate whether it should be proceeded with at the meeting. Following an indication of support by a majority of members present for the motion to be dealt with, the Chairman will allow the motion to be moved. Thereupon the motion will be moved, debated and put to vote at the meeting. In other words, unless the majority of members present agree to deal with the motion at the meeting, the motion will not be moved or debated.

9. According to Paragraph 37A of the FC Procedure, it is for the Chairman to decide whether a motion proposed by a member is directly related to the agenda item under deliberation. Based on the past practice of the FC and other committees of the Legislative Council (“LegCo”), the Chairman normally makes the decision on his own or in consultation with the committee clerk and/or committee's legal adviser if he so wishes.

10. Regarding the timing for dealing with such motions, paragraph 37A of the FC Procedure only specifies that such motions may be moved *“during the deliberation of an agenda item and prior to the question on it being put to vote”*. As the Chairman is responsible for chairing the meeting, it would be for the Chairman to decide on the appropriate timing for dealing with motions to express views on an agenda item, taking into account the views of members. The Chairman may also make reference to the relevant practice of FC and other committees of LegCo. Normally, motions of this kind would be dealt with towards the end of the deliberation of the relevant agenda item, so that members could take into account all the relevant information and views provided/expressed during the discussion in making decisions on these motions.

11. While Paragraph 37A of the FC Procedure specifies that any proposed motion or amendment to the motion to express a view on an agenda item should be presented in written form, the member proposing the motion or amendment would only be invited to speak on the motion or amendment when FC has decided to deal with the motion. It is also for the Chairman to direct in what manner would the motion and amendment(s) to the motion be displayed or printed or read out to ensure that all members are well informed of the wording of the motion and

amendments that are to be debated and voted on.¹ The Chairman will take into account all relevant factors including, among others, the number of motions proposed to be moved and the meeting time available to deal with the motions and other business on the agenda.

12. Where a motion is to be proceeded with, the member proposing the motion will be invited to move the motion and speak within the time specified by the Chairman, which is usually five minutes, taking into account the views of members. Each member may only speak once while the member proposing the motion will have the opportunity to make a reply before the motion is put to vote. The Chairman may invite the Administration to respond at anytime during the debate and before the member proposing the motion makes his reply. There is no time limit to the Administration's response.

13. If there are two or more motions proposed to be moved by members which have been ruled by the Chairman to be directly related to the agenda item and agreed by a majority of members that they should be proceeded with, the Chairman may decide whether a joint debate on the motions or groups of motions should be held, taking into account the extent that the contents of the motions are inter-related. After members have spoken, the motions should be voted on in the order in which they were presented to the Committee.

Moving of a motion to adjourn discussion of an item or adjourn proceedings

14. Under Paragraph 39 of the FC Procedure, a member, when speaking on a proposal in the Committee, may move without notice that discussion of an item or further proceedings be adjourned. The Chairman shall then propose the question on the motion to adjourn. A member, when speaking on the question, may not speak for more than once and shall not make a speech for longer than any time period as decided by the Committee, or where no such decision has been made, for more than three minutes. When no more member indicates his/her intention to speak on the motion, the Chairman shall put the motion to the Committee for a decision. When a motion to adjourn the discussion of an item is

¹ When the FC considered the items PWSC(2009-10)68, 69 and 72 relating to the XRL project on 16 January 2010, the Chairman ruled that 28 motions proposed by members were directly related to the agenda item under discussion. The Chairman exercised her discretion and invited the members proposing the motions to read out the motions as no hard copies of the motions were printed. Voting on the motions was taken one by one. All motions were not dealt with in the end.

passed, the Committee will not take a vote on that item and will proceed to the next item on the agenda. If a motion to adjourn the proceedings of the Committee is passed, the Chairman will declare the meeting closed without putting further questions.

15. At the FC meeting on 18 December 2009 at 3:00 pm, a member moved a motion on adjournment of the discussion on the items related to the XRL project. The motion was negatived. At the FC meeting on 16 January 2010 at 9:00 am, another member moved a motion on adjournment of the discussion on the same items. Having considered the advice of the Legal Adviser and the views of members on the matter, the Chairman ruled that it was not in order for the member to move a motion on the adjournment of the discussion on the items.

Order in Committee

16. According to Rule 45(1) of RoP and Paragraph 32 of the FC Procedure, the Chairman, after having called the attention of the Committee to the conduct of a member who persists in irrelevance or tedious repetition of his own or other members' arguments in the discussion, may direct him to discontinue his speech.

17. Rule 39 of RoP and Paragraph 33 of the FC Procedure provides that a member may not interrupt another member except –

- (a) on a point of order which he wishes to bring to notice for the Chairman's decision; or
- (b) to seek elucidation on some matters raised by that member in the course of discussion, if the member speaking is willing to give way and the Chairman agrees.

18. As provided under Rule 45(2) of RoP, the Chairman shall order a Member whose conduct is grossly disorderly to withdraw immediately from the Committee for the remainder of that meeting; and the Clerk shall act on orders received by him from the Chair to ensure compliance with this order.

Voting

19. Rule 71(5B) of RoP provides that all matters before FC or its subcommittees shall be decided by a majority of the members voting. Neither the Chairman of, nor any other member presiding at, the Committee shall vote, unless the votes of the other members are equally divided, in which case he shall give a casting vote. According to Paragraph 45 of the FC Procedure, the casting vote shall not be exercised in such a way as to produce a majority vote in favour of the question put.

20. Paragraphs 46 to 48 of the FC Procedure set out in detail the voting procedure in the Committee.

21. Pursuant to the decision of the FC made on 4 November 2011, the provisions in paragraphs 46 and 47 governing the division bell have been suspended and the following interim arrangement shall apply:

- (a) If a member challenges the statement of the Chairman by claiming a division, then the Chairman shall order the Committee to proceed to a division and the division shall be held forthwith immediately after a division bell has been rung for five minutes; and
- (b) In the event that the division bell does not function or may not be rung, the Chairman shall order the Clerk to arrange for members of the Committee within the precincts of the Chamber to be notified of the division, and the division shall be held ten minutes after the order has been made.

22. Under paragraph 47 of the FC Procedure, immediately after the Chairman has declared the result of a division under an agenda item, a member may move without notice that in the event of further divisions being claimed in respect of any motions or questions under the same agenda item, the Committee do proceed to each of such divisions immediately after the division bell has been rung for one minute. Thereupon the Chairman shall propose the question on that motion. Whilst the FC Procedure is silent on how such a motion should be dealt with, it is a common practice that the Chairman will immediately put the question to vote unless members indicate their wish to speak on it, in which case the Chairman would decide on the speaking time, taking into account members' views.

Meetings convened at shorter notice

23. Under Rule 71(6) of the RoP, the FC shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members at least 5 clear days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

24. As regards special meetings convened to consider urgent items or items, they are subject to the same requirement of a five-clear-day notice under Rule 71(6) of RoP. However, the Chairman may direct that shorter notice is to be given pursuant to the same rule. These procedural requirements are reflected in Paragraphs 10 and 11 of the FC Procedure.

25. Paragraph 11 of the FC Procedure also makes it clear that “[a]ny items on the agenda scheduled for discussion but not dealt with at the meeting will be carried over to the next meeting or, if the chairman so decides, to a special meeting”. The notice requirement for holding such a special meeting is the same as that for other meetings, i.e. at least five clear days or shorter notice if directed by the Chairman. It is for the Chairman to judge how short the notice he would give on a case-by-case basis. Nevertheless, it has been the practice of the Chairman to give regard to the urgency of the matter as explained by the Administration, and how well members had been briefed and, hence, how ready members would be to discuss the subject matter before attending the meeting. An example was the Chairman’s decision to hold an urgent meeting on 14 November 2008 to consider further support measures to assist the small and medium enterprises following the financial tsunami, with one clear day’s notice.

26. In the event that it is considered that a special meeting should be held urgently with notice as short as, say, less than two hours, for dealing with items outstanding from a previous meeting, the Chairman should, before he directs that such a short notice be given, have regard to all the factors that are relevant for determining the urgency of the matter, and the views of members. Such an approach was adopted by the FC Chairman on 18 July 2008 for a special meeting to be held immediately following a scheduled meeting to consider the unfinished agenda items on the agenda of the scheduled meeting, including the financial proposal for setting up a trust fund in support of reconstruction in the Sichuan earthquake stricken areas. The special meeting was held with less than one hour’s notice as directed by the Chairman with the agreement of members present at the preceding meeting.

27. When the FC considered the items PWSC(2009-10)68, 69 and 72 relating to the XRL project, three meetings were originally scheduled for 16 January 2010². At the meeting on 16 January 2010 starting at 1:30 pm, the Chairman directed at around 2:30 pm that if the deliberation of the items concerned could not be completed at the meeting, an additional meeting would be held at 3:45 pm on the same day to continue the consideration of the items. All members were notified of the holding of the urgent meeting by paging devices apart from normal despatch and emails. Again at the meeting on 16 January 2010 starting at 3:45 pm, the Chairman informed members at 4:36 pm of her decision to hold an additional meeting at 6:00 pm on the same day if the current meeting could not complete the consideration of the items.

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² FC had held two meetings on 18 December 2009, three meetings on 8 January 2010 and three meetings on 15 January 2010 to consider the same items.