

立法會
Legislative Council

LC Paper No. PWSC82/13-14

Ref : CB1/F/2/1(14)B

Tel : 3919 3106

Date : 26 May 2014

From : Clerk to the Public Works Subcommittee

To : Members of the Public Works Subcommittee

Public Works Subcommittee
Meeting on 21 May 2014

**Letters from Hon Gary FAN and Dr Hon Fernando CHEUNG
to the Chairman about motions proposed under 32A of the
Public Works Subcommittee Procedure
and the Chairman's reply to Hon Gary FAN**

At the instruction of the Chairman, I enclose for members' information -

- (a) a letter from Hon Gary FAN dated 21 May 2014 (LC Paper No. PWSC82/13-14(01)) on the above subject (Chinese version only);
- (b) the Chairman's reply (LC Paper No. PWSC82/13-14(02)) to Mr Gary FAN (Chinese version only);
- (c) the ruling of the LegCo President made on 17 April 2014 on the Committee stage amendments proposed by 14 Members to the Appropriation Bill 2014 (Annex); and
- (d) a letter from Dr Hon Fernando CHEUNG dated 21 May 2014 (LC Paper No. PWSC82/13-14(03)) on the same subject (Chinese version only).

(Sharon CHUNG)
Clerk to the Public Works Subcommittee

Encl.

c.c. Other members of the Finance Committee



中華人民共和國香港特別行政區

Hong Kong Special Administrative Region of the People's Republic of China

立法會PWSC82/13-14(01)號文件

LC Paper No. PWSC82/13-14(01)



范國威

立法會議員辦事處

Office of Hon Gary FAN Kwok-wai, Member of Legislative Council

檔案編號 Our Ref.: GF-LC-2014-0122(O)

傳真(2539 0621)

香港中區立法會道 1 號
立法會綜合大樓 709 室
立法會工務小組委員會主席
盧偉國議員, BBS, MH, JP

盧主席：

有關閣下於本年 5 月 21 日工務小組委員會會議的裁決

於本年 5 月 21 日的立法會工務小組委員會會議上，閣下經參考立法會主席就 14 位議員擬對《2014 年撥款條例草案》提出的全體委員會審議階段修正案所作的裁決，裁定本人根據《工務小組委員會會議程序》(下稱《會議程序》)第 32A 段提出的 26 項議案不符合規程。

鑒於立法會主席於 2014 年 4 月 17 日所作的裁決，只是依據《香港特別行政區立法會議事規則》(下稱《議事規則》)第 57(4)(d)條作出，而該條文規限的只是有關法案的處理程序，並不規限工務小組委員會處理議員就政府工務工程項目建議所提出的議案。立法會秘書處的法律顧問亦於 5 月 21 日的小組委員會會議上確認，《議事規則》第 57(4)(d)條對法案修正案的限制與《會議程序》第 32A 段的條文並不相關。

為免影響日後工務小組委員會委員根據《會議程序》第 32A 段提出動議的權利，本人現特來函要求閣下參考立法會主席一貫的做法，就前文所述的裁決向全體委員作出書面陳詞，詳盡解釋有關裁決的理據，並指明所引用的《議事規則》或《會議程序》的條文，作為立法會的正式紀錄。

盼望閣下能嚴肅考慮本人的要求，並作出適當跟進。如有任何查詢，煩請隨時與本人聯絡。順祝

台安！

立法會議員 范國威 謹啟

2014 年 5 月 21 日

副本送：工務小組委員會秘書 總議會秘書(1)6 鍾蕙玲女士 (傳真：2978 7569)

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立法會

LÉGISLATIVE COUNCIL

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立法會 PWSC82/13-14(02)號文件
LC Paper No. PWSC82/13-14(02)

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立法會道1號
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范國威議員

范議員：

按《工務小組委員會會議程序》第32A段提出的議案

謝謝閣下於5月21日就上述事宜致函本人。

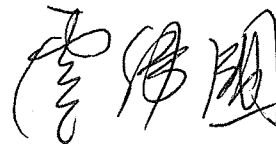
在審閱閣下根據《工務小組委員會會議程序》第32A段擬提出的26項議案(編號0079至0104)時，我發覺它們與你先前提交的部份議案有序列關係。在考慮這些議案時，我曾參考立法會主席就14位議員擬對《2014年撥款條例草案》提出的全體委員會審議階段修正案所作的裁決。

雖然《議事規則》第57(4)條只適用於法案的修正案，與工務小組委員會處理的事宜有所不同，我認為立法會主席與我作為小組委員會主席，有同樣的責任，確保會議有秩序、公平及正當地進行。因此，在考慮你提出的該26項議案時，我參考了上述裁決第11、12、14及17段中所提及有關立法會主席在行使及履行其主持會議的職權所考慮的原則。

由於小組委員會在2014年5月7日及5月13日的會議上，已處理你提出的70多項議案，當中包括每組序列議案中的一項或以上的議案，我相信你在5月21日的會議中再就有關組別動議序列議案，除了佔用小組委員會的會議時間外，並沒有達致任何與小組委員會的職能有合理關連的目的。經參考上述立法會主席裁決的有關原則後，我認為如容許你提出該等序列議案，將會令小組委員會程序延長至一個程度，致使小組委員會不能妥為行使及履行其職責。因此，我裁定該等序列議案不合乎規程，並在會議前一天把該等序列議案退回給你。

我想重申，我作出上述決定時，我考慮的是要在尊重個別委員提出議案的權利，以及確保小組委員會會議有秩序及有效率地妥善進行之間，取得適當平衡。事實上，我在5月21日的會議上，亦容許你按《工務小組委員會會議程序》第32A段提出其他合乎規程的議案，包括我退回給你，然後經你整合後再提交的議案。

工務小組委員會主席

A handwritten signature in black ink, appearing to be '盧偉國' (Louis Kwok), written in a cursive style.

(盧偉國)

2014年5月26日

**President's ruling on Committee stage amendments
proposed by 14 Members to the Appropriation Bill 2014**

Fourteen Members have respectively given notices to move a total of 1 917 Committee stage amendments ("CSAs") to the Schedule to the Appropriation Bill 2014 ("the 2014 Bill") at the Council meeting of 16 April 2014¹ as follows:

- (a) Hon SIN Chung-kai, Hon LEE Cheuk-yan and Hon CHEUNG Kwok-che each proposes one CSA to reduce the provisions for three Heads of Expenditure;
- (b) Hon James TO, Dr Hon Fernando CHEUNG and Hon Cyd HO each proposes two CSAs to reduce the provisions for four Heads of Expenditure;
- (c) Dr Hon Helena WONG and Hon WU Chi-wai each proposes three CSAs to reduce the provisions for five Heads of Expenditure;
- (d) Hon Claudia MO proposes four CSAs to reduce the provisions for three Heads of Expenditure;
- (e) Hon Gary FAN proposes 10 CSAs to reduce the provisions for eight Heads of Expenditure;
- (f) Hon WONG Yuk-man proposes 120 CSAs to reduce the provisions for 35 Heads of Expenditure;
- (g) Hon Albert CHAN proposes 129 CSAs to reduce the provisions for 27 Heads of Expenditure;
- (h) Hon CHAN Chi-chuen proposes 132 CSAs to reduce the provisions for 23 Heads of Expenditure; and
- (i) Hon LEUNG Kwok-hung proposes 1 507 CSAs to reduce the provisions for 58 Heads of Expenditure.

¹ The President adjourned the Council meeting of 16 April 2014 after the motion on the Second Reading of the 2014 Bill was passed. The CSAs to the Bill are to be moved at the Council meeting of 30 April 2014.

2. In considering whether the CSAs proposed by the 14 Members to the 2014 Bill are in order under the Rules of Procedure, I invited the Administration to comment on the CSAs and the Members to respond to the Administration's comments on their CSAs. The Administration's written comments on the CSAs have been provided to the Members.

The Administration's comments

3. The Administration's views on the proposed CSAs are in **Appendix I**. The Administration is of the view that:

- (a) most of the 1 507 CSAs proposed by one Member seeking to reduce by different permutations certain expenditure under a wide spectrum of Heads of Expenditure are frivolous;
- (b) at least 148 CSAs proposed by individual Members, if taken together, would produce mutually conflicting and unintelligible results;
- (c) at least 206 CSAs involving expenditure cuts would have the effect of rendering the relevant bureaux and departments totally inoperable. These CSAs, if ruled in and endorsed by the Legislative Council ("LegCo"), would put public services into total disarray;
- (d) at least 17 CSAs appear to refer to sums not included in the 2014 Bill or not included under the Heads/Subheads of Expenditure quoted; and
- (e) at least nine pairs of CSAs proposed by one Member are identical.

4. Taking into account the proceedings on the Appropriation Bill 2013 ("the 2013 Bill"), the avowed intent of some Members to filibuster by proposing CSAs and the substantial increase in the number of proposed CSAs to the 2014 Bill, the Administration considers that the admission of the CSAs would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under Article 73 of the Basic Law ("BL"). Given the importance of the timely passage of the 2014 Bill to ensure the availability of funds to support committed public services, the Administration invites me to exercise my powers under BL 72(1) and Rule

92 of the Rules of Procedure to rule out the CSAs which are frivolous or meaningless or intended or likely to unduly delay the legislative process, in order to ensure the proper exercise and discharge of the powers and functions of LegCo.

Members' responses

5. Except Hon LEUNG Kwok-hung, the other 13 Members either have no comments on or have not responded to the Administration's views.

6. Hon LEUNG Kwok-hung contends that the purpose of his moving of the proposed CSAs is to discharge the powers and functions of Members of LegCo under BL 73(1), (2) and (6) to amend, examine, approve and debate appropriation bills and budgets introduced by the government, and that his proposed CSAs mainly target at public officers with poor performance, unnecessary operating expenditures of Government departments, unnecessary posts or new posts, and unnecessary projects or activities. Hon LEUNG Kwok-hung also contends that his proposed CSAs to the 2014 Bill are almost identical to those proposed by him to the 2013 Bill, which were ruled admissible, and are therefore not frivolous or meaningless. He argues that given its constitutional status under BL, LegCo should not be pressurized by the Administration to accept its views but should instead act independently as usual.

My opinion

7. I have noted that among the 1 507 CSAs proposed by Hon LEUNG Kwok-hung, 909 CSAs are grouped into 116 sequences each of which comprises three or more CSAs seeking to reduce the appropriation to a Head of Expenditure for a specific purpose by sequentially varying amounts ("sequential CSAs") (**Appendix II**). This is not the first time that a sequence of amendments in such a manner is proposed by individual Members to a bill or a motion. In the past two years, I dealt with such amendments on three occasions.

8. In May 2012, a total of 1 232 CSAs were proposed by one Member to the Legislative Council (Amendment) Bill 2012 which sought to disqualify a person who had resigned as a Member of LegCo from standing for a by-election held within six months of his resignation. These CSAs fell into groups of amendments, each of which represented one class of exception to the disqualification rule provided in the Legislative Council (Amendment) Bill 2012. Among these CSAs, some 720 were drafted in such a way that

the disqualification would not apply if certain specified factors in a sequentially varying degree occurred, for example, if the resigning Member agreed to pay a sequentially varying percentage of the cost of the by-election. All these CSAs were ruled admissible by me under the Rules of Procedure.

9. Shortly thereafter, in June 2012, 167 amendments were proposed to be moved by a Member to a proposed Government resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) to effect transfer of statutory functions pursuant to the Chief Executive-elect's proposals to re-organise the Government Secretariat. The same approach was adopted by the Member in 59 of his proposed amendments, each of which sought to change respectively the effective date of the proposed resolution to the first day of the 59 months that followed July 2012. These amendments, as claimed by the Member, were to allow Members to choose the most appropriate date for the proposed re-organisation to take effect. In ruling these amendments admissible, I expressed my view that when taken together, the 59 proposed amendments could be regarded as frivolous and might have the effect of prolonging Council proceedings more than was necessary for providing a fair choice for Members. However, I decided that these proposed amendments should be admitted for debate until the Rules of Procedure make it clear that there should be restrictions against a series of proposed amendments which are frivolous or meaningless.²

10. Last year, six Members proposed a total of 762 CSAs to the 2013 Bill. Again, some 220 CSAs were grouped into 22 sequences with each sequence containing three or more CSAs that sought to reduce the appropriation to a particular Head of Expenditure for a specific purpose by sequentially varying amounts. I considered each of those CSAs and examined their intended effect. I could not conclude that these CSAs were "frivolous" or "meaningless" within the meaning of Rule 57(4)(d) of the Rules of Procedure.³ I also assessed whether the admission of those sequential CSAs would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under BL. My view then was that at that stage, I was yet to be satisfied that there would be such demonstrable effect. The sequential CSAs were therefore ruled admissible.⁴

² Paragraph 9 of the President's ruling on 18 June 2012 on the amendments proposed by Hon Albert CHAN and Hon WONG Yuk-man to the proposed resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1).

³ Paragraph 15 of the President's ruling on 22 April 2013 on Committee stage amendments proposed by six Members to the Appropriation Bill 2013.

⁴ Paragraph 17 of the President's ruling on 22 April 2013 on Committee stage amendments proposed by six Members to the Appropriation Bill 2013.

11. This year, 909 sequential CSAs are proposed to the 2014 Bill. Before forming my opinion on the admissibility of these 909 sequential CSAs, I reminded myself that in the first four debates on 134 proposed CSAs to a Head of Expenditure in the 2013 Bill, 105 were sequential CSAs. I noted that in those four debates lasting over 31 hours in total, the proposers of such sequential CSAs hardly explained the difference between the successive amendments in the sequential CSAs and there was no exchange of views among Members on such sequential CSAs. Other than the proposers, an overwhelming majority of Members voted against all sequential CSAs. This convinced me that instead of providing fair and genuine choices for Members, the moving of those sequential CSAs achieved no purpose other than taking up the Council's time in completing the necessary proceedings.

12. As President, the constitutional powers and functions that I should exercise and discharge are provided in BL 72, which include presiding over meetings, deciding on the agenda, and exercising other powers and functions as prescribed in the Rules of Procedure. Such powers and functions must include the power to exercise proper authority or control over meetings, including ensuring the orderly, fair and proper conduct of meetings and ruling on the admissibility of CSAs. Therefore, I consider it incumbent upon me to ensure that the admission of CSAs is in accordance with the Rules of Procedure and would not prevent LegCo from properly exercising and discharging its powers and functions under BL.

13. The experience of the Council in the disposal of sequential CSAs has convinced me that the Member who proposes to move such sequential CSAs is not inviting the committee of the whole Council to examine any fair and genuine choices of proposed reductions to the respective Heads of Expenditure as part of its functions to discuss the details of a bill under Rule 56 of the Rules of Procedure. The 909 sequential CSAs do not serve any purpose reasonably connected with the function of the committee of the whole Council. In my opinion, the sequential CSAs infringe Rule 57(4)(d) of the Rules of Procedure for being frivolous or meaningless when each of them is considered in the context of the other amendments also being proposed by the same Member in respect of the same head or sub-head of expenditure and the experience of last year's debates on sequential CSAs to the 2013 Bill.

14. Further, in the light of what transpired in the debates on sequential CSAs to the 2013 Bill as mentioned in paragraph 11 above, I am of the view that the admission of the 909 sequential CSAs to the 2014 Bill would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and

functions under BL. Therefore, they should not be allowed to be moved for this reason as well.

15. I have also examined in detail the 26 pairs of CSAs to the 2014 Bill proposed by Hon LEUNG Kwok-hung, each of which seeks to reduce the appropriation to a Head of Expenditure for a specific purpose with the amounts representing respectively the expenditure for one and six months, or one and twelve months. Given the material difference in the proposed amounts to be reduced within each pair, such CSAs may plausibly be considered as providing fair and genuine choices for Members. I would therefore allow them to be moved.

16. In the light of my decision not to admit the 909 sequential CSAs, if Hon LEUNG Kwok-hung is minded to select not more than two out of each of the 116 sequences of his proposed CSAs to be moved, I would be prepared to give leave to waive notice and to consider the admissibility of his selected CSAs provided that they are submitted to me by 22 April 2014 noon.

17. In reaching the above decisions, my consideration is to strike a proper balance between respecting the right of individual Members to propose amendments and ensuring the efficient conduct of the Council as a law making institution.

18. While noting the Administration's concerns about the avowed intent of some Members to filibuster by way of proposing numerous CSAs and the possible impact of some CSAs, if passed, on the Government or Government operation, I maintain the view as stated in my previous ruling that the motive of Members proposing amendments and the merits of CSAs are not relevant to the consideration of admissibility of CSAs. However, as I have elaborated in paragraphs 11 to 14 above, I cannot ignore the new developments including the Council's experience in the disposal of the sequential CSAs to the 2013 Bill when considering the admissibility of the 909 sequential CSAs to the 2014 Bill. I am convinced that the admission of the 909 sequential CSAs to the 2014 Bill would give rise to a situation where LegCo would be prevented from its proper exercise and discharge of its constitutional powers and functions.

19. Twenty CSAs proposed by Hon LEUNG Kwok-hung refer to sums not included in the 2014 Bill or the Heads/Subheads of Expenditure or refer to purposes not specified in the Estimates for the year ending 31 March 2015 (**Appendix III**). As the accuracy of such information is fundamental to the integrity of the proposed CSAs, these CSAs cannot be moved.

Hon LEUNG Kwok-hung has submitted 28 duplicate CSAs which also cannot be moved (**Appendix IV**).

My ruling

20. I rule that:

- (a) the 957 CSAs proposed by Hon LEUNG Kwok-hung in **Appendices II to IV** are inadmissible; and
- (b) the remaining 550 CSAs proposed by Hon LEUNG Kwok-hung and all the 410 CSAs proposed by the other 13 Members are admissible.



(Jasper TSANG Yok-sing)
President
Legislative Council

17 April 2014



工黨
LABOUR PARTY

張超雄立法會議員辦事處

Fernando Chiu Hung Cheung Legislative Councilor's Office

立法會

財務委員會

工務小組委員會主席

盧偉國議員：

立法會PWSC82/13-14(03)號文件

LC Paper No. PWSC82/13-14(03)

今日（5月21日）閣下把范國威議員按《工務小組委員會會議程序》32A條動議的序列議案裁定為「瑣屑無聊」或「無意義」，並表示援引立法會主席就14位議員擬對《2014年撥款條例草案》提出的全體委員會審議階段修正案所作的裁決。

可是，根據《工務小組委員會會議程序》32A條：

「在審議某議程項目期間，委員可在有關該議程項目的待決議題付諸表決前，無須經預告而動議一項議案，就該議程項目表達意見；惟該議案須獲主席認為與該議程項目直接相關，並獲過半數委員同意應立即予以處理。任何擬提出的議案或該議案的修正案，應以書面形式提交。委員可在合併辯論中就該議案及該議案的修正案(如有的話)發言。」，

並沒有如《議事規則》57(4)(d)條的規定：

「不可動議全體委員會主席認為瑣屑無聊或無意義的修正案。」

因此，我認為閣下上述的裁決缺乏理據，並表示不滿。

立法會議員

張超雄

張超雄

二零一四年五月二十一日

副本抄送：議事規則委員會

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