

立法會
Legislative Council

LC Paper No. CB(2)1564/13-14

Ref : CB2/H/5/13

House Committee of the Legislative Council

**Minutes of the 24th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 16 May 2014**

Members present:

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon IP Kin-yuen
Hon CHUNG Kwok-pan

Clerk in attendance :

Miss Flora TAI

Clerk to the House Committee

Staff in attendance :

Mr Kenneth CHEN, SBS	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mrs Justina LAM	Deputy Secretary General
Mr Andy LAU	Assistant Secretary General 1
Miss Odelia LEUNG	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General 4
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Stephen LAM	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Ms Dora WAI	Principal Council Secretary 1
Ms Emily PANG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Mr Timothy TSO	Assistant Legal Adviser 2
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Josephine SO	Senior Council Secretary (2)6
Miss Jasmine TAM	Senior Council Secretary (2)8
Miss Karen LAI	Council Secretary (2)6
Mr Ringo LEE	Senior Legislative Assistant (2)1
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

Action

**I. Confirmation of the minutes of the 23rd meeting held on 9 May 2014
(LC Paper No. CB(2)1510/13-14)**

The minutes were confirmed.

II. Matters arising

**Report by the Chairman on his meeting with the Chief Secretary for
Administration ("CS")**

2. The Chairman said that CS had expressed concern that the use of filibuster by some Members during the proceedings on the Appropriation Bill 2014 had hampered the conduct of Council business.

Action

3. Ms Emily LAU said that following the Government's announcement of the deferral of the monthly financial provision of June 2014 for The Legislative Council Commission ("the Commission"), the Secretary to the Commission had written to inform its members that based on the latest assessment, the Commission had sufficient reserves to meet three months' operating expenses of the Secretariat (i.e. from June to August 2014). However, there would be insufficient funds under subhead 366 to settle Members' remuneration and operating expenses reimbursement for the month of June 2014. Ms LAU expressed concern about the financial shortfall and enquired how it would be dealt with.

4. The Chairman said that it was a matter for the Commission. As indicated in the circular memorandum from the Secretary to the Commission, where necessary, a meeting of the Commission would be held to discuss how to meet the financial shortfall.

5. Ms Emily LAU considered it necessary for the Administration to provide a paper to the Legislative Council ("LegCo") to explain its decision of deferring the monthly financial provisions for the three bodies including the Commission. She also requested the Secretariat to provide relevant information, including the feasibility of deployment of funds between the subheads, to facilitate the discussion of the Commission.

6. The Chairman asked the Secretariat to follow up Ms Emily LAU's requests.

7. Mr Albert CHAN said that he did not mind having his remuneration suspended in the event of financial shortfall arising from the Administration's decision.

8. Dr Priscilla LEUNG hoped that the Commission would consult all Members on the matter.

III. Business arising from previous Council meetings

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

Competition (Amendment) Bill 2014 *(LC Paper No. LS54/13-14)*

9. At the invitation of the Chairman, Legal Adviser briefed Members on the report prepared by the Legal Service Division on the Bill.

Action

10. Mr Ronny TONG 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 Albert HO, Mr Ronny TONG, Mr Charles MOK, Mr SIN Chung-kai and Mr TANG Ka-piu.

IV. Further business for the Council meeting of 21 May 2014

(a) Bill - resumption of debate on Second Reading, Committee Stage and Third Reading

Dutiable Commodities (Amendment) Bill 2014

11. The Chairman said that the Bills Committee on the above Bill had reported to the House Committee ("HC") at the last meeting.

(b) Members' motions

Proposed resolution under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the Inland Revenue (Exchange of Information relating to Taxes) (United States of America) Order to be moved by Hon James TO

(Wording of the proposed resolution issued vide LC Paper No. CB(3)643/13-14 dated 15 May 2014)

12. The Chairman said that Mr James TO, Chairman of the Subcommittee on the above Order, had given notice to move a proposed resolution at the Council meeting to extend the scrutiny period of the Order to the Council meeting of 18 June 2014.

V. Business for the Council meeting of 28 May 2014

(a) Questions
(LC Paper No. CB(3)637/13-14)

13. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the meeting.

(b) Bills - First Reading and moving of Second Reading

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

(c) **Government motion**

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

(d) **Member's Bill - First Reading and moving of Second Reading**

**Kowloon Tong Church of the Chinese Christian and
Missionary Alliance Incorporation (Amendment) Bill 2014**

16. The Chairman informed Members that Dr Priscilla LEUNG had given notice to present the above Bill to the Council on 28 May 2014.

(e) **Members' motions**

(i) **Motion under the Legislative Council (Powers and
Privileges) Ordinance to be moved by Dr Hon Kenneth
CHAN**

*(Wording of the motion issued vide LC Paper No.
CB(3)636/13-14 dated 13 May 2014)*

17. The Chairman said that Dr Kenneth CHAN would move the above motion at the Council meeting of 28 May 2014.

(ii) **Motion to be moved by Dr Hon LAM Tai-fai**

(iii) **Motion to be moved by Hon WONG Yuk-man**

18. The Chairman said that the subjects of the motions to be moved by Dr LAM Tai-fai and Mr WONG Yuk-man were "Concern about the integration and conflicts between Hong Kong and the Mainland" and "Devising the constitution by all people, making a new covenant, and realizing genuine 'Hong Kong people ruling Hong Kong'" respectively. The wording of the motions had been issued to Members.

19. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above motions was Wednesday, 21 May 2014.

20. The Chairman informed Members that so far, six Members' motions without legislative effect had yet to be dealt with by the Council. Another four such motions had also been scheduled for the Council meetings of 21 and 28 May 2014. In the event that the debate on the Appropriation Bill 2014 had to stand over to these Council meetings, there would then be a backlog of 10 Members' motions without legislative effect in total.

Report of HC on Consideration of Subsidiary Legislation

21. The Chairman invited Members to note the list tabled at the meeting (LC Paper No. CB(3)644/13-14), which contained three items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 28 May 2014. He reminded Members to indicate their intention by 5:00 pm on Tuesday, 20 May 2014, should they wish to speak on any of the items of subsidiary legislation.

VI. Report of Bills Committees and subcommittees

Report of the Subcommittee on Inland Revenue (Exchange of Information relating to Taxes) (United States of America) Order

22. Mr James TO, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. Mr TO said that the Order sought to implement the Agreement between the Hong Kong Special Administrative Region ("HKSAR") and the United States of America ("the US") for the Exchange of Information relating to Taxes ("the US Agreement") signed on 25 March 2014. According to the Administration, the US Agreement provided the necessary basis for Hong Kong to provide for exchange of information upon request made by the US tax authorities under the US Foreign Account Tax Compliance Act ("FATCA") which would take effect from 1 July 2014.

23. Mr James TO further said that the Subcommittee noted that under FATCA, foreign financial institutions ("FFIs"), including those in Hong Kong, were required to report to the US tax authorities the financial information in respect of their US clients, and that an FFI which failed to report the required information would be subject to 30% withholding on all US-sourced payments made to it. The Subcommittee had expressed concern about the impact of FATCA on financial institutions in Hong Kong, and the scope of FFIs and their investing/trading activities under FATCA, among others.

24. Mr James TO added that he had given notice to move a proposed resolution at the Council meeting of 21 May 2014 to extend the scrutiny period of the Order to the Council meeting of 18 June 2014 so as to allow more time for the Subcommittee to scrutinize the Order. The Subcommittee would hold a further meeting next week to continue its scrutiny work.

Action

25. The Chairman informed Members that if the proposed resolution for extending the scrutiny period of the Order was passed before the deadline for amending the Order (i.e. the Council meeting of 28 May 2014), the period for amending the Order would be extended to the Council meeting of 18 June 2014 and the deadline for giving notice of amendments would be Wednesday, 11 June 2014; otherwise, the period for amending the Order would expire at the Council meeting of 28 May 2014.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)1511/13-14)

26. The Chairman said that as at 15 May 2014, there were 15 Bills Committees, four subcommittees under HC and nine subcommittees on policy issues under Panels in action. Two subcommittees on policy issues were on the waiting list.

VIII. Any other business

Proposal of Dr Hon KWOK Ka-ki to ask an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 21 May 2014 relating to the recent shooting incidents in the Philippines and the criteria adopted by the Hong Kong Government in issuing Outbound Travel Alerts

(Letter dated 14 May 2014 from Dr Hon KWOK Ka-ki (LC Paper No. CB(2)1539/13-14(01)))

27. The Chairman informed Members that Dr KWOK Ka-ki's letter was received after the deadline for proposing agenda items for this HC meeting. According to rule 10 of the House Rules, to assist the President in considering requests for asking urgent questions without the required notice, the Member concerned should, where practicable, first seek the agreement of HC. He had therefore given approval to discuss Dr KWOK's proposal to ask an urgent oral question at the Council meeting of 21 May 2014 under "Any Other Business".

28. At the invitation of the Chairman, Dr KWOK Ka-ki said that the HKSAR Government lowered the Outbound Travel Alert ("OTA") for the Philippines from Black to Amber on 23 April 2014. There were queries about the appropriateness of the Government's quick decision to adjust the OTA for the Philippines. In the light of the two recent shooting incidents in the Philippines which resulted in the death of Chinese people

Action

and the incidents of violence which broke out in Vietnam over the past few days, he considered it necessary for the Administration to expeditiously explain to the public the criteria adopted in issuing OTAs and the measures in place to ensure the safety of Hong Kong travellers. He appealed to Members to support his proposal.

29. Mr James TO said that while he supported Dr KWOK Ka-ki's proposal, he reckoned that it was unlikely that the proposed urgent oral question could be asked at the Council meeting of 21 May 2014, given the filibuster on the Appropriation Bill 2014. He suggested that the Panel on Security ("SE Panel") should hold an urgent special meeting to discuss the matter, in view of the latest situations in Vietnam and the Philippines.

30. Mr IP Kwok-him, Chairman of the SE Panel, said that at the meeting of the Panel on 13 May 2014, the Secretary for Security had explained issues relating to the recent shooting incidents in the Philippines, and members did not raise further queries. As regards the incidents of violence in Vietnam, he considered that Members should keep in view the developments in Vietnam in considering the need to follow up the matter.

31. Ms Cyd HO queried why the OTA for the Philippines had not been raised despite the recent shooting incidents. She considered it necessary for the Administration to clearly explain the criteria adopted in issuing OTAs with a view to ensuring the safety of Hong Kong travellers. She supported both the asking of the proposed urgent oral question in Council and early discussion of the matter by the Panel.

32. Mr Paul TSE said that Dr KWOK Ka-ki's proposed question was mainly related to the recent shooting incidents in the Philippines, which had been discussed by the Panel at its recent meeting. He did not consider that the request for jumping the queue had been justified, as he did not see the urgency in asking the proposed question. He, however, supported early discussion on the recent incidents of violence in Vietnam.

33. Mr YIU Si-wing said that the SE Panel had just discussed the case of the Philippines and there had been ample discussion at the meeting. As regards the case of Vietnam, he informed the meeting that it had been agreed this morning that all package tours with itineraries covering Vietnam which departed between 16 and 26 May (both days inclusive) would be cancelled. He added that Members should keep in view the developments in Vietnam in considering the need to follow up the matter.

Action

34. Mr Vincent FANG said that while he generally did not support the raising of urgent questions as they were in effect jumping the queue, he considered that there was urgency for Members to follow up the recent incidents of violence in Vietnam, given that the personal safety and properties of many Hong Kong manufacturers in Vietnam were at stake.

35. The Chairman said that the Panel on Commerce and Industry and the SE Panel might consider holding a joint meeting to discuss matters relating to the recent incidents of violence in Vietnam.

36. Ir Dr LO Wai-kwok said that the situation in Vietnam, which was fast deteriorating, was more worthy of the urgent attention of LegCo than the shooting incidents in the Philippines, given the serious threat posed to Hong Kong manufacturers in Vietnam. He considered it more appropriate and effective for the matter to be followed up by the relevant Panels. In his view, the focus should be on the assistance to be rendered to Hong Kong manufacturers in Vietnam, rather than the criteria for issuing OTAs.

37. Dr KWOK Ka-ki said that it was incumbent upon Members to follow up matters of public concern. He could not subscribe to the view that asking an urgent question was tantamount to jumping the queue. He noted that there was insufficient time for discussion on the matter at the SE Panel meeting on 13 May 2014. He stressed that his proposed question concerned not only the case of the Philippines, but also the criteria adopted by the Government in issuing OTAs.

38. The Chairman put to vote the proposal of Dr KWOK Ka-ki to ask an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 21 May 2014 relating to the recent shooting incidents in the Philippines and the criteria adopted by the Hong Kong Government in issuing OTAs. Dr KWOK Ka-ki requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Prof Joseph LEE, Mr Ronny TONG, Ms Cyd HO, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG.

(25 Members)

Action

The following Members voted against the proposal:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Kwok-him, Mr Paul TSE, Mr James TIEN, Mr NG Leung-sing, 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, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr Christopher CHUNG and Mr Tony TSE.

(34 Members)

39. The Chairman declared that 25 Members voted for and 34 Members voted against the proposal, and no Member abstained from voting. The Chairman declared that the proposal was not supported.

40. There being no other business, the meeting ended at 2:58 pm.