

立法會

Legislative Council

LC Paper No. CB(1)1904/13-14
(These minutes have been seen
by the Administration)

Ref: CB1/PS/1/12

Panel on Transport

Subcommittee on Matters Relating to Railways

Minutes of meeting on Monday, 5 May 2014, at 4:30 pm in Conference Room 1 of the Legislative Council Complex

- Members present :** Hon Michael TIEN Puk-sun, BBS, JP (Chairman)
Hon CHAN Han-pan (Deputy Chairman)
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon LEUNG Kwok-hung
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Dr Hon Elizabeth QUAT, JP
Hon TANG Ka-piu
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Tony TSE Wai-chuen
- Members attending :** Hon Abraham SHEK Lai-him, GBS, JP
Hon Cyd HO Sau-lan
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Claudia MO
Hon James TIEN Pei-chun, GBS, JP
Hon MA Fung-kwok, SBS, JP
Hon CHAN Yuen-han, SBS, JP

Dr Hon KWOK Ka-ki
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon CHUNG Kwok-pan

Members absent : Hon Ronny TONG Ka-wah, SC
Hon Paul TSE Wai-chun, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers attending : **Agenda item IV**

Professor Anthony CHEUNG, GBS, JP
Secretary for Transport and Housing

Mr Joseph LAI Yee-tak, JP
Permanent Secretary for Transport and
Housing (Transport)

Mr YAU Shing-mu, JP
Under Secretary for Transport and Housing

Ms Rebecca PUN Ting-ting, JP
Deputy Secretary for Transport and Housing
(Transport)¹

Miss Winnie WONG Ming-wai
Principal Assistant Secretary for Transport and
Housing (Transport)³

Mr Peter LAU Ka-keung, JP
Director of Highways

Mr Henry CHAN Chi-yan, JP
Principal Government Engineer/Railway
Development
Highways Department

Mr CHAN Choi-wai
Chief Engineer/Railway Development 2-3
Highways Department

Attendance by invitation : **Agenda item IV**

Dr Raymond CH'IEN Kuo-fung
Chairman
MTR Corporation Limited

Mr Jay H WALDER
Chief Executive Officer
MTR Corporation Limited

Mr CHEW Tai-chong
Projects Director
MTR Corporation Limited

Mr Antonio CHOI Fung-chung
General Manager-XRL
MTR Corporation Limited

Mr Mark G LOMAS
Project Manager-XRL (Planning and Controls)
MTR Corporation Limited

Ms Maggie SO Man-kit
Deputy General Manager-Projects and
Property Communications
MTR Corporation Limited

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Angel SHEK
Senior Council Secretary (1)4

Miss Katherine CHAN
Council Secretary (1)2

Ms Emily LIU
Legislative Assistant (1)2

Action

- I Confirmation of minutes**
(LC Paper No. CB(1)1339/13-14 - Minutes of meeting on 3 January 2014)
1. The minutes of the meeting held on 3 January 2014 were confirmed.
- II Information papers issued since last meeting**
- (LC Paper No. CB(1)1045/13-14(01) - Referral from Members' meeting-cum-luncheon with Central and Western District Council members on 28 November 2013 on the public transport re-organization plans in Central and Western District to tie in with the commissioning of West Island Line
- LC Papers Nos. CB(1)1129/13-14(01) - Letter from Hon Gary FAN
and CB(1)1281/13-14(01) Kwok-wai on safety of the high speed train for the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link project and Administration's response
- LC Papers Nos. CB(1)1130/13-14(01) - Letter from Dr Hon Kenneth
and CB(1)1245/13-14(01) CHAN Ka-lok and Dr Hon KWOK Ka-ki on safety of MTR train cars manufactured in Mainland China and Administration's response
- LC Paper No. CB(1)1221/13-14(01) - Administration's response to a submission on the Light Rail service)
2. Members noted the above papers which had been issued since the last meeting.

III Items for discussion at the next regular meeting on 4 July 2014

- (LC Paper No. CB(1)1328/13-14(03) - List of outstanding items for discussion
LC Paper No. CB(1)1328/13-14(04) - List of follow-up actions)

Special meetings in May and June 2014

3. Members agreed that, if necessary, the Subcommittee would hold additional meetings in May/June to continue discussion of the latest position of the Hong Kong section ("HKS") of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"). Members noted that a meeting time slot from 10:45 am to 12:45 pm on 19 May 2014 had been reserved for the purpose.

4. The Chairman suggested and members agreed that a special meeting be held in June 2014 to discuss the following items –

- (a) financial arrangements for commercial revenues between the Government and the MTR Corporation Limited ("MTRCL") in respect of the HKS of XRL, in particular those relevant to commercial premises in the West Kowloon Terminus; and
- (b) recent railway incidents involving the MTR signalling system and back-up data system.

(Post-meeting note: With the concurrence of the Chairman, the special meeting in June 2014 was scheduled for 10:45 am on 13 June 2014. Following discussion between the Administration and the Chairman, item (a) above was replaced by "Progress update of the construction of the West Island Line, South Island Line (East) and Kwun Tong Line Extension" whereas item (b) was deferred to the regular meeting in July 2014, with its scope adjusted to focus on "Railway incident on 27 April 2014 involving MTR train service data network transmission and follow-up actions".)

Regular meeting in July 2014

5. Members agreed to discuss the item on "Railway development" at the next regular meeting on Friday, 4 July 2014, at 10:45 am.

(Post-meeting note: Following discussion between the Chairman and the Administration, the agenda item on "Railway development" was replaced by "Progress update of the construction of the Shatin to

Central Link", and the item on "Railway incident on 27 April 2014 involving MTR train service data network transmission and follow-up actions" mentioned in paragraph 4 above was added to the agenda of the regular meeting on 4 July 2014.)

IV Latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link

- (LC Paper No. CB(1)1328/13-14(03) - Administration's paper on the latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Paper No. CB(1)1354/13-14(01) - MTR Corporation Limited's paper on the construction and commissioning of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Paper No. CB(1)1328/13-14(04) - Paper on the latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link prepared by the Legislative Council Secretariat (updated background brief)
- LC Paper No. CB(1)1194/13-14(01) - Submission from a member of the public on the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Papers Nos. CB(1)1288/13-14(01) - and (02) Joint letters from Hon WONG Kwok-hing and Hon TANG Ka-piu and from Hon James TO Kun-sun and Hon WU Chi-wai respectively on the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link

LC Papers Nos. CB(1)1328/13-14(05) - Letters from Hon Michael TIEN Puk-sun on the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link) and (06)

Disclosure

6. The Chairman reminded members that in accordance with rule 83A of the Rules of Procedure of the Legislative Council, they should disclose the nature of any direct or indirect pecuniary interest before they spoke.

7. The Deputy Chairman said that he was a small shareholder of MTRCL.

Discussion

8. At the invitation of the Chairman, the Administration and MTRCL gave a brief account respectively on the delay in the construction of HKS of XRL and the way for taking the project forward. With the aid of a powerpoint presentation, MTRCL further briefed members on the causes of delay, delay recovery measures implemented, the revised schedule for project completion as well as the estimated revised project cost in relation to the XRL project.

(Post-meeting note: The notes of the powerpoint presentation [LC Paper No. CB(1)1379/13-14(01)] were issued to members vide Lotus Notes e-mail on 7 May 2014.)

9. The Subcommittee deliberated (index of proceedings attached at **Annex**). Members expressed views and concerns about the causes of delay in the construction of the HKS of XRL and the responsibilities of parties concerned.

Follow-up actions to be taken by the Administration/MTRCL

Admin/
MTRCL

10. After deliberation, the Administration/MTRCL was requested to provide the following document/information –

- (a) minutes of the urgent meeting held amongst the Transport and Housing Bureau, Highways Department ("HyD") and MTRCL in the evening of 21 November 2013 following the call made by the Chief Executive Officer of MTRCL to the Secretary for

Transport and Housing on that day expressing disagreement about reporting to the Subcommittee that the target for completion of the HKS of XRL in 2015 could not be met; and

- (b) with regard to the delay recovery measures reassured by MTRCL at various junctures to maintain the target completion date of the HKS of XRL in 2015 ("the proposed measures"), a brief report on whether HyD and/or the external consultant employed by HyD (i.e. Jacobs China Limited) had conducted any independent assessment of the feasibility and effectiveness of the proposed measures to mitigate the delay at different stages and provided relevant advice to the Administration or not.

(Post-meeting note: The written responses provided by the Administration and MTRCL respectively were issued to members on 15 and 16 May 2014 vide LC Papers Nos. CB(1)1422/13-14(01) and (04), and CB(1)1438/13-14(01).)

Proposed motions

11. As directed by the Chairman, letters from Mr Gary FAN Kwok-wai and Mr WU Chi-wai respectively [LC Papers Nos. CB(1)1385/13-14(01) and (02)](Chinese version only) were tabled at the meeting, which set out the wording of the motions proposed by these two members in relation to the agenda item. Due to time constraint, the motions were not dealt with at the meeting.

(Post-meeting note: The above letters were issued to members on 8 May 2014 vide LC Papers Nos. CB(1)1385/13-14(01) and (02).)

V Any other business

12. Members agreed to hold a further meeting on Monday, 19 May 2014, at 10:45 am to continue discussion on the latest position of the construction of HKS of XRL.

13. There being no other business, the meeting ended at 6:47 pm.

Council Business Division 1
Legislative Council Secretariat
6 August 2014

Panel on Transport

Subcommittee on Matters Relating to Railways

**Proceedings of the meeting
on Monday, 5 May 2014, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes</i>			
000055 – 000143	Chairman	Confirmation of minutes of the meeting held on 3 January 2014 [LC Paper No. CB(1)1339/13-14]	
<i>Agenda Item II – Information papers issued since last meeting</i>			
000144 – 000221	Chairman	Members noted the information papers issued since the last regular meeting.	
<i>Agenda Item III – Items for discussion at the next regular meeting on 4 July 2014</i>			
000222 – 000710	Chairman Mr James TO Mr CHAN Kam-lam	Members agreed to discuss the item on "Railway development" proposed by the Administration at the regular meeting on 4 July 2014. Discussion on arrangements of special meetings in May and June 2014.	
<i>Agenda Item IV – Latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link</i>			
000711 – 001451	Chairman Dr Elizabeth QUAT Mr WONG Kwok-hing Mr LEE Cheuk-yan Dr KWOK Ka-ki Mr CHAN Kam-lam Mr IP Kwok-him Mr James TO	Discussion on meeting arrangements in respect of the speaking time for members and representatives from the Administration/MTR Corporation Limited ("MTRCL"), and for dealing with motions proposed by Mr Gary FAN and Mr WU Chi-wai at the meeting. Members agreed to extend the meeting for 15 minutes from 6:30 pm to allow sufficient time for dealing with the proposed motions.	
001452 – 002235	Administration	The Secretary for Transport and Housing ("STH") gave an account on the latest position of the construction of the Hong Kong section ("HKS") of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") [LC Paper No. CB (1)1328/13-14(03)], highlighting the following events and views – (a) it was not unusual for major civil works contracts to experience programme delay due to site complications, weather conditions and engineering problems, etc. Such delay might be	

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		<p>mitigated or rectified with appropriate measures;</p> <p>(b) the Highways Department ("HyD") noted that the project had encountered, at various junctures, issues causing delay, and MTRCL had been taking remedial measures to mitigate the delay;</p> <p>(c) notwithstanding the delay in the overall progress in 2013, MTRCL maintained the target of XRL project completion and commissioning within 2015. In view of the dedication shown by MTRCL to adhere to the completion target, the active work they were doing in developing mitigating measures with the contractors, the Administration could not rule out the possibility for MTRCL to achieve the target;</p> <p>(d) the Administration had contemplated making public at the Subcommittee meeting on 22 November 2013 the possibility that the XRL might commence operation after 2015. On 21 November, the Chief Executive Officer of MTRCL ("CEO/MTRCL") called STH expressing disagreement with reporting so to the Subcommittee. CEO/MTRCL stressed then that it was still feasible to commence XRL operation by end-2015;</p> <p>(e) an urgent meeting was subsequently held amongst the Transport and Housing Bureau ("THB"), HyD and MTRCL in the evening of 21 November 2013 where THB had queried why MTRCL remained of the view that the XRL project could be completed and commissioned in 2015 if it would only be ready for testing in October 2015. After much discussion, the meeting concurred that while the target of 2015 should be maintained at that stage, the Administration and MTRCL should not be guarded with the challenges faced by the project when attending the Subcommittee meeting on 22 November 2013;</p> <p>(f) at the Subcommittee meeting on 22 November 2013, the Administration stated that, based on the latest assessment of MTRCL, the major works of XRL could be completed within 2015, followed by testing and trial runs which would</p>	

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		<p>take six to nine months;</p> <p>(g) at the Project Coordination Meeting (i.e. a meeting regularly held between HyD and MTRCL to discuss issues related to timely completion of the XRL project within the budget) on 18 March 2014, MTRCL still maintained that the XRL project was targeted for completion in 2015, in spite of continued programme slippage;</p> <p>(h) in the weekend of 12 and 13 April 2014, CEO/MTRCL and Chairman of MTRCL ("Chairman/MTRCL"), respectively, called STH urgently informing the latter that the completion date of 2015 could not be met. STH was taken by surprise since MTRCL had repeatedly given reassurances to THB and HyD at different levels that, despite delays in progress, the target completion date of 2015 could still be met with mitigating measures and delay recovery measures. STH subsequently demanded MTRCL to provide a full assessment report on the construction progress and reasons for the substantial delays; and tasked the Director of Highways ("DHy") to provide an independent review report of the matter;</p> <p>(i) STH concurred that, from hindsight, the Administration should not have had so much trust in MTRCL being able to catch up with programme delays. He apologized to the public and the Legislative Council ("LegCo") for the mis-judgement;</p> <p>(j) the Government had decided to set up an Independent Expert Panel ("IEP") to conduct a thorough examination of existing systems and practices in relation to MTRCL's project management and costs control system, as well as the present project monitoring mechanism by both MTRCL and HyD/THB, and to make any recommendations for improvement. The relevant report would be made public when available; and</p> <p>(k) THB would consult the Department of Justice ("DoJ") about any possible breach by MTRCL of its obligations under the Entrustment Agreement for construction, testing and</p>	

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		commissioning of XRL ("EA").	
002236 – 002632	MTRCL	<p>Chairman/MTRCL gave a statement as highlighted below –</p> <p>(a) he apologized on behalf of MTRCL for not keeping the public informed in a timely fashion of the challenges confronting the project, and the impact of those challenges on the project completion date;</p> <p>(b) the MTRCL Board had taken the XRL project delay seriously and put in place a number of measures to deal with the issues, including the setting up of a committee comprising independent non-executive directors of MTRCL for reviewing the management of the project; and</p> <p>(c) MTRCL would set up a data room specifically for LegCo Members to access MTRCL's external and internal documents pertaining to the XRL project.</p>	
002633 – 003101	MTRCL	<p>CEO/MTRCL gave a statement as highlighted below –</p> <p>(a) he apologized for MTRCL's having failed to communicate effectively with the public about the XRL project;</p> <p>(b) as to why MTRCL had not conveyed to the public earlier the implications of the XRL delay at various stages, he believed that all efforts should be made to address problems with a construction project before accepting that it would be delayed. It was not until every possible solution and alternative had been explored that it became clear in April 2014 that the original target of 2015 could not be achieved; and</p> <p>(c) MTRCL had put forth a clear, realistic and achievable plan to take the XRL project forward for commissioning in 2017 (i.e. the revised target).</p>	
003102 – 003331	MTRCL	The Projects Director of MTRCL ("PD/MTRCL") gave a statement as highlighted below –	

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		<p>(a) while there were opportunities between October 2013 and March 2014 for him to communicate earlier to CEO/MTRCL and Board of MTRCL, LegCo or the Government about the possible delay in project completion, he had not done so due to the strong belief in the ability of the MTRCL project team and the project's contractors to mitigate the delay and maintain the target of 2015; and</p> <p>(b) he extended apology for his mis-judgement and late communication about the XRL project delay, and the consequent damage dealt to MTRCL's credibility.</p>	
003332 – 004102	MTRCL Chairman	<p>With the aid of a powerpoint presentation [LC Paper No. CB(1)1379/13-14(01)], MTRCL briefed members on the causes of the XRL project delay, delay recovery measures implemented, revised schedule for project completion as well as the estimated revised project cost. MTRCL indicated that based on the revised XRL opening date at end of 2017, it was anticipated that the final cost would not differ significantly from the amount of \$68.4 billion as reported by the media.</p>	
004103 – 004506	Chairman Mr Gary FAN Administration	<p>Mr Gary FAN stated the following views –</p> <p>(a) the serious delay of the XRL project and the late communication of the matter to the public reflected problems in the management and credibility of MTRCL;</p> <p>(b) CEO/MTRCL should be held responsible and resign for the serious XRL delay and late disclosure of the matter, as well as seemingly persuading STH not to report the matter earlier on;</p> <p>(c) the Administration should restructure the MTRCL Board with a view to enhancing the corporation's management; and</p> <p>(d) STH should be held accountable for the late disclosure of the XRL project delay.</p> <p>In reply to Mr FAN's enquiries, the Administration clarified that –</p> <p>(a) STH had reported to the Chief Executive of</p>	

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		<p>Hong Kong Special Administrative Region ("CE") on 14 April 2014 about the XRL programme slippage after the call from CEO/MTRCL to STH on 12 April informing the latter that the target of 2015 for commencing XRL operation could not be met; and</p> <p>(b) Professor LEE Chack-fan of the University of Hong Kong was invited by STH to chair the IEP. Professor LEE had however resigned before the official appointment was made.</p>	
004507 – 004957	Chairman Dr Elizabeth QUAT Administration MTRCL	<p>Dr Elizabeth QUAT expressed her disappointment and rage about the serious delay of the XRL project. She enquired about –</p> <p>(a) the reasons for the Administration not making public or reporting to the Subcommittee in November 2013 about the project delay, and the basis for coming to the view then that MTRCL could meet the target of 2015;</p> <p>(b) in view of the serious project slippage, whether Chairman/MTRCL considered that CEO/MTRCL was fit and proper to remain in the post to manage the corporation; and</p> <p>(c) apart from setting up an IEP to examine the existing systems and practices of MTRCL, whether the Administration would contemplate other ways to improve the governance of MTRCL.</p> <p>The Administration responded that –</p> <p>(a) it would uphold its responsibility as the majority shareholder of MTRCL to enhance the governance of the corporation. The IEP would conduct a comprehensive review of all the systems, processes, practices and other modus operandi relating to implementation of the XRL project; and</p> <p>(b) at the urgent meeting held on 21 November 2013 amongst THB, HyD and MTRCL, the Administration had repeatedly queried why MTRCL remained of the view that the XRL project could be commissioned in 2015 having regard to the progress of XRL works. However, MTRCL maintained that the target of 2015 was</p>	

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		achievable.	
004958 – 005445	Chairman Deputy Chairman Administration MTRCL	<p>Disclosure of direct or indirect pecuniary interest by the Deputy Chairman.</p> <p>The Deputy Chairman considered that, while it was not uncommon for construction projects to encounter delays, it would be far more serious a matter if MTRCL had tried to hide the XRL project delay. He enquired –</p> <ul style="list-style-type: none"> (a) whether the Administration would reduce the Project Management Cost of \$4.59 billion payable to MTRCL under the EA in view of the XRL project delay; (b) how MTRCL would be held accountable for the project delay and overrun cost; and (c) whether CEO/MTRCL would bear the responsibility by stepping down. <p>MTRCL responded that –</p> <ul style="list-style-type: none"> (a) a number of unforeseen difficulties (e.g. site conditions and engineering problems) were encountered from the beginning of the XRL project and MTRCL had made every effort to overcome the challenges; (b) MTRCL was committed to ensuring that public funds, including funding for the XRL project, were used prudently and cost-effectively, and would stand by its obligations under the EA; and (c) CEO/MTRCL apologized for not having communicated well the project challenges to the public but did not consider there was an issue of integrity on his part. <p>The Administration advised that it would look into whether MTRCL had breached its obligations under the EA, after taking into account MTRCL's assessment report and DoJ's views.</p>	
005446 – 005852	Chairman Dr KWOK Ka-ki Administration MTRCL	Dr KWOK Ka-ki expressed doubts about the integrity of the MTRCL management and whether the XRL project could be delivered according to the revised schedule. He enquired –	

Time marker	Speaker	Subject(s)	Action required
		<p>(a) whether the Government had exerted undue pressure on Chairman/MTRCL when it entrusted the XRL project to MTRCL in 2009;</p> <p>(b) whether Chairman/MTRCL was aware of the call made by CEO/MTRCL to STH on 21 November 2013 concerning the reporting to the Subcommittee;</p> <p>(c) whether the Administration would take timely action to revamp the MTRCL Board by replacing the existing membership, with a view to restoring public confidence in the corporation and its management of ongoing railway projects; and</p> <p>(d) whether the Government could make claims against MTRCL for the overrun cost arising from the XRL project delay.</p> <p>MTRCL responded that –</p> <p>(a) Chairman/MTRCL did not recall any pressure imposed by the Government in relation to entrusting the XRL project to MTRCL; and</p> <p>(b) Chairman/MTRCL was not aware of the call made by CEO/MTRCL to STH on 21 November 2013.</p> <p>The Administration clarified that –</p> <p>(a) its report to the Subcommittee at the meeting of 22 November 2013 on the latest position of the construction of the HKS of XRL was essentially based on the outcome of thorough discussion at the meeting held amongst THB, HyD and MTRCL on 21 November 2013; and</p> <p>(b) while IEP would examine issues relating to XRL in focus, the Government as majority shareholder would take forward measures separately to improve the governance of MTRCL.</p>	
005853 – 010318	Chairman Ms Claudia MO Administration MTRCL	Ms Claudia MO expressed concern that the Government, as the majority shareholder of MTRCL, might shirk responsibility by conveniently attributing the XRL project delay to problems with MTRCL's project management. She enquired -	

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		<p>(a) whether STH would resign as his credibility had been undermined by the scandal; and</p> <p>(b) whether CEO/MTRCL considered that he was victimized as a political scapegoat in the scandal; and whether he would contemplate quitting his job for, amongst other faults, having made the call to STH on 21 November 2013 stopping the latter from reporting to the Subcommittee that the target for commencing XRL operation in 2015 could not be met.</p> <p>STH expressed regret that the incident appeared to have given the impression that the Government had colluded with MTRCL to cover up the XRL project delay. As with other challenges and critical moments he had faced in his political life, he would reflect seriously on the issues concerned.</p> <p>CEO/MTRCL said that his assessment in November 2013 that XRL could be commissioned in 2015 was based on information available to him at that stage. He emphasized that he was accountable for MTRCL and accepted responsibility for MTRCL's failing to communicate openly, candidly and effectively with the Government and LegCo. He considered that the main issue ahead was how to take forward the XRL project within the revised schedule.</p>	
010319 – 010727	Chairman MTRCL	<p>In reply to the Chairman, the Administration confirmed that at the urgent meeting held on 21 November 2013, the Administration did not accept MTRCL's proposed solution to meet the 2015 target by adopting the single track operation scenario.</p> <p>In reply to the Chairman, MTRCL confirmed that –</p> <p>(a) the consensus reached between the Government and MTRCL at the urgent meeting on 21 November 2013 remained of a double-tunnel scenario. The single-tunnel proposal was put forth by MTRCL as a fallback option; and</p> <p>(b) given the unfavourable ground conditions in the West Kowloon Terminus ("WKT") work site and the need to meet the target of 2015 for commissioning of XRL, it was then envisaged that the concrete work production rate should be doubled in order to recover delays.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Chairman queried the justification for MTRCL to have proposed the single-tunnel alternative for commissioning XRL in 2015 since –</p> <p>(a) it was beyond MTRCL's control whether the Mainland authority would agree to this option having regard to the implications on XRL service on the Mainland side; and</p> <p>(b) according to MTRCL's paper [LC Paper No. CB(1)1354/13-14(01)], only certain part of the 810A works area had been excavated down to the B4 level, and all major structural works of WKT would not be completed until December 2016.</p>	
010728 – 011159	Chairman Mr LEE Cheuk-yan Administration	<p>Mr LEE Cheuk-yan considered that –</p> <p>(a) MTRCL and the Administration had known, as early as in 2013, that full opening of XRL by 2015 might not be achieved when the Minimum Operation Requirement ("MOR") was explored and proposed by MTRCL in 2013. The fact that CEO/MTRCL called STH on 21 November 2013 expressing disagreement with reporting to the Subcommittee that the target for commencing operation in 2015 could not be met was thus tantamount to colluding with STH to deceive the Subcommittee; and Chairman/MTRCL should consider terminating the service of CEO/MTRCL for not giving a full account; and</p> <p>(b) as STH ultimately decided not to inform the Subcommittee that XRL might only commence operation after 2015, in spite of his awareness that full opening of XRL might not be feasible, it appeared to be a mis-judgement on the part of STH.</p> <p>The Chairman said that, while the Administration had objected to the single-track scenario (i.e. an extended MOR concept based on the original MOR proposal plus the use of one tunnel across the boundary section running in bi-directional format), it had not indicated its stance to the MOR proposal.</p> <p>The Administration affirmed the Chairman's understanding and explained to members the differences between the MOR and extended MOR</p>	

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		concepts.	
011200 – 011632	Chairman Mr James TO Administration	<p>Mr James TO opined that the Administration should have told the Subcommittee at the meeting on 22 November 2013 the diverse views between MTRCL and the Administration, or expressed reservation about MTRCL's view on commissioning of XRL by 2015.</p> <p>The Administration admitted that, in retrospect, the suggested approach might have minimized misunderstanding and avoided the current scandal. However, the Administration's decision to state to the Subcommittee that the major works of XRL could be completed within 2015 was essentially an outcome of discussion and professional judgement amongst the relevant parties, taking into account assessment of the impact of the cross-boundary tunnelling works. STH stressed that both the Administration and MTRCL had acted in good faith in this course of actions.</p> <p>At the request of Mr TO, the Administration/MTRCL agreed to provide a copy of the notes of the urgent meeting held on 21 November 2013.</p>	Administration/ MTRCL to provide information/ response (paragraph 10(a) of minutes)
011633 – 012037	Chairman Ir Dr LO Wai-kwok Administration	<p>Ir Dr LO Wai-kwok observed that the gap between the overall physical progress completed against the original master programme of XRL was widening in spite of the mitigation measures taken by MTRCL in the past years. He expressed concern how the Administration had assessed and followed up on the delay recovery measures proposed/implemented by MTRCL. Looking forward, Ir Dr LO considered it imperative to ensure that the delay recovery measures for the major works in relation to the construction works at WKT Station and the repair of Tunnel Boring Machine for tunnelling works would be effective for achieving the revised target of 2017.</p> <p>The Administration explained that –</p> <p>(a) project progress and viability of completion target were assessed against different indicators. Apart from the original master programme of XRL, the Administration had made reference to other indicators such as the cumulative expenditure vis-a-vis overall project cost and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>contingencies, and overall contract status in terms of time elapsed; and</p> <p>(b) there were precedent cases (e.g. construction of the Shenzhen Bay Bridge and Hong Kong Exhibition and Convention Centre) in which major civil works contracts had experienced significant programme delay and were subsequently mitigated by various measures, resulting in completion of the project as scheduled.</p>	
012038 – 012450	Chairman Mr CHAN Kam-lam MTRCL	<p>Mr CHAN Kam-lam expressed concern whether and how MTRCL had put pressure on the contractors to speed up progress of the project. He wondered why MTRCL would change their assessment of the possible commissioning date of XRL within a short period of one month because in March 2014 MTRCL still maintained that the project was targeted for completion in 2015.</p> <p>MTRCL responded that all along, it had been working closely with the contractors to develop mitigation measures and delay recovery measures to recover delays. For instance, to recover the delay to Contract 810A caused by deferred site access and unfavourable ground conditions etc, a plan was developed whereby the works were re-sequenced to provide early access in phases by prioritizing critical areas for electrical and mechanical contractors to commence their works.</p>	
012451 – 013016	Chairman Dr Helena WONG MTRCL Administration	<p>Dr Helena WONG expressed concern that the Administration might have covered up the XRL project delay to "protect" MTRCL. She considered that the Administration should be fully aware in 2013 of the increasing likelihood that the target date for opening of service at end 2015 could not be met, given the proposals put forth by MTRCL at different junctures which compromised the original plan of full opening in 2015 (i.e. the MOR approach proposed in June 2013 and the "extended" MOR approach proposed in November 2013).</p> <p>MTRCL clarified that the extended MOR approach discussed with the Administration at the urgent meeting on 21 November 2013 still aimed to meet the target of commencement of operation in 2015.</p>	

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		<p>The Administration reiterated that there had been no plot to hide the facts from the public. STH pointed out that the Administration and MTRCL held different views at the urgent meeting on 21 November 2013 as to whether XRL could be commissioned in time within 2015 mainly because of different assessments of the critical issue of when the cross-boundary tunnelling works would be completed on the Mainland side and commence on the Hong Kong side.</p>	
013017 – 013422	<p>Chairman Mr WONG Kwok-hing Administration</p>	<p>Mr WONG Kwok-hing considered that the trust and collaboration between the Administration and MTRCL had already been seriously damaged by the current scandal. He enquired –</p> <p>(a) how the Administration could ensure that MTRCL would honour its pledge to deliver XRL on time under the revised schedule, in particular when PD/MTRCL had already given notice of resignation, and whether the Administration would deduct the Project Management Cost payable to MTRCL; and</p> <p>(b) whether the Administration would consider completely taking over the project management of XRL from MTRCL.</p> <p>The Administration reiterated that –</p> <p>(a) it would be pre-mature to speak on the deduction of Project Management Cost and the Administration would look into any possible breach of obligations by MTRCL under EA after taking into account MTRCL's assessment report and having sought advice from the DoJ; and</p> <p>(b) as for the implementation of the project, the IEP to be set up would review the systems and practices in the XRL project monitoring mechanism and the Administration would continue to monitor the project closely.</p>	
013423 – 013903	<p>Chairman Mr WU Chi-wai Administration</p>	<p>Mr WU Chi-wai expressed concern that the Administration had not timely reported the project delay to the Subcommittee and the public, in particular when the MTRCL had proposed the MOR approach on 20 August 2013 and the extended MOR approach on 21 November 2013.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>He enquired –</p> <p>(a) as the Administration had not acceded to the extended MOR approach, whether and what follow-up actions had been taken by the Administration to ensure that MTRCL would proceed with the original programme;</p> <p>(b) whether DHy was aware or informed of the MOR proposal before it was presented to the Railway Development Office ("RDO") of HyD on 20 August 2013, and whether and when DHy reported the matter to THB; and</p> <p>(c) according to Annex G to Administration's paper, at the 31st Project Supervision Committee meeting held on 25 January 2013, DHy had enquired when MTRCL could advise on the overall project master programme as well as the delay recovery measures for WKT but it was not <u>until 5 August 2013</u> that MTRCL submitted the presentation. In view of the late response from MTRCL, he queried whether and how the Administration had followed up on the submission of report from MTRCL before August 2013, and whether the Administration had also sought advice/report from the external consultant concurrently.</p> <p>The Administration advised that –</p> <p>(a) although it had reservation about MTRCL's reassurance of the 2015 target in November 2013 having regard to a different assessment of the progress of cross-boundary tunnelling works, if the tunnelling works in question had the chance to be completed early within 2015, the Administration could not rule out the possibility that the testing and trial runs could also be completed within 2015 for commissioning of XRL in the same year;</p> <p>(b) from hindsight, the Administration should have requested MTRCL to make a "judgement call" at a timely juncture to confirm whether the target of 2015 could be met;</p> <p>(c) the Administration was not aware of the MOR proposal before it was presented to RDO/HyD in around August 2013; and</p>	

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		<p>(d) there was a typographical error in the Chinese version of the Annex G in question, i.e. MTRCL had made a presentation to RDO/HyD on <u>8 May 2013</u> (instead of 5 August 2013) that the WKT works and contract 826 (Huanggang to Mai Po Tunnels) were behind schedule. Before the presentation, the Administration had been following up with MTRCL and the external consultant on XRL works progress by conducting site visits and meetings, etc.</p>	
<p>013904 – 014552</p>	<p>Chairman Mr TANG Ka-piu Administration MTRCL</p>	<p>Referring to MTRCL's fare increase in spite of huge profits made and the frequent railway incidents, Mr TANG Ka-piu expressed concern about the ability of the Administration to monitor MTRCL's operation effectively. In particular, while there were signs in May 2013 that the XRL project might be delayed, it was not until one year later, i.e. in April 2014, that MTRCL informed STH that the target of 2015 could not be met. Mr TANG enquired -</p> <p>(a) how the XRL project's overrun cost would be met and whether the Administration would exhaust all means, including legal means, to pursue claims against MTRCL as entitled under EA for the project delay and financial loss including loss of economic benefits due to the delay;</p> <p>(b) whether future railway projects would still be entrusted to MTRCL; and</p> <p>(c) expiry date of the employment contract of CEO/MTRCL and the notice period for his resignation; and whether the MTRCL Board would consider taking disciplinary actions on CEO/MTRCL.</p> <p>The Administration re-assured members that it would exercise all its rights as entitled under the EA and contract laws in respect of any breach of obligations by MTRCL.</p> <p>MTRCL advised that –</p> <p>(a) the current contract of CEO/MTRCL would end in 2015. Under the leadership of the CEO in the past two had a half years, MTRCL with a proven track record had made efforts to</p>	

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		<p>overcome challenges in railway projects and acted in good faith. Appraisal of the performance of top and senior management of MTRCL (including CEO/MTRCL) would be conducted in accordance with the established internal system;</p> <p>(b) MTRCL apologized for having failed to communicate with the public about the XRL project delay. The committee of independent non-executive directors to be established by MTRCL would review the corporation's project management regime, in particular the timely report of issues of importance to the board of MTRCL;</p> <p>(c) LegCo Members might visit the data room of MTRCL to be set up specifically for them to access XRL project-related documents; and</p> <p>(d) it was imperative that MTRCL should effectively use its manpower and other resources in order to deliver the ongoing railway projects satisfactorily.</p>	
014553 – 015216	Chairman Ms CHAN Yuen-han Mrs Regina IP Administration	<p>Ms CHAN Yuen-han raised that –</p> <p>(a) the Administration should not have subscribed to MTRCL's continued assurances that the 2015 target could be met in light of the persistent delay for the entire year of 2013, especially the delay in cross-boundary tunnelling works;</p> <p>(b) the Administration did not report possible delays of the XRL project earlier during 2013 in order to "protect" public officers for certain faults they might have committed; and</p> <p>(c) it was questionable why the Administration, even with the input of a dedicated team and such substantial resources to monitor the XRL project, could not have exercised effective supervision of MTRCL.</p> <p>In view of the controversies over the previous funding approval for XRL project, Mrs Regina IP considered that STH should have reported the project delay upward as soon as it had come to his attention, and monitored the project more closely</p>	

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		<p>through, for instance, weekly reports by MTRCL.</p> <p>The Administration responded that –</p> <p>(a) at the meeting held with MTRCL on 21 November 2013, the Administration did query why MTRCL remained of the view that XRL could be completed and commissioned in 2015. In view of the different views between the Administration and MTRCL about the cross-boundary tunnelling works, STH considered that MTRCL should be given the "benefit of the doubt" and adequate time for recovering project delay; and</p> <p>(b) from hindsight, STH admitted that there might be room for improvement in how the Administration had followed up the XRL project delay with MTRCL after November 2013.</p>	
015217 – 015646	Chairman Mr CHUNG Kwok-pan MTRCL	<p>Mr CHUNG Kwok-bun considered that MTRCL should be prepared to bear the XRL project overrun cost under the EA. He enquired whether the MTRCL's data room would be open to the public and whether the visitors had to keep the information confidential.</p> <p>MTRCL advised that –</p> <p>(a) the data room was meant to enable LegCo Members to have first-hand access to information of the project, and would not be open to the public. As the documents might contain commercial or price sensitive information, LegCo Members would be requested to sign a confidentiality undertaking before perusal of the documents; and</p> <p>(b) MTRCL had taken into account all known conditions and the production rate in determining the revised target of 2017 for XRL. The revised programme had not yet taken into account some potential measures to accelerate the programme, e.g. closure of a section of Lin Cheung Road to facilitate construction of new Lin Cheung Road underpass, and excavation by rock blasting at WKT north top-down area.</p>	

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015647 – 020115	Chairman Mr Frankie YICK Administration MTRCL	<p>Mr Frankie YICK expressed the following views and concerns –</p> <p>(a) as MTRCL had approached the Administration in August 2013 to explore a partial opening scenario, this was highly indicative that the 2015 target could not be met at that time. The Administration should not have subscribed to MTRCL's re-assurance on the 2015 target after the call made by CEO/MTRCL to STH on 21 November 2013 and stated this target to the Subcommittee at the meeting on 22 November 2013; and</p> <p>(b) IEP members should be nominated by CE instead of STH as STH should be amongst the parties in the XRL project monitoring mechanism to be reviewed by IEP.</p> <p>The Administration clarified that –</p> <p>(a) the status of the XRL programme presented to the Subcommittee on 22 November 2013 was not an outcome of any agreement between STH and CEO/MTRCL during their telephone conversation on 21 November, but the result of a thorough and frank discussion between the Administration and MTRCL at the urgent meeting on 21 November 2013; and</p> <p>(b) at the meeting with MTRCL on 21 November 2013 –</p> <p>(i) MTRCL indicated that it would be in a position to assess the impact of the cross-tunnelling works once the works had completed on the Mainland side and commenced on the Hong Kong side. MTRCL envisaged that it should take another six months to conduct the said assessment; and</p> <p>(ii) the Administration could not rule out the possibility that MTRCL might meet the 2015 target, having regard to MTRCL's experience in managing railway projects and its assessment of the XRL project.</p>	
020116 – 020527	Chairman Mr LEUNG Kwok-hung	Mr LEUNG Kwok-hung expressed the following views and concerns –	

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		<p>(a) STH, as a public officer accountable to the public, appeared to have over-trusted MTRCL on meeting the completion target of the XRL project in 2015 and had not exercised effective supervision of MTRCL; and</p> <p>(b) if CEO/MTRCL had threatened STH into not reporting the genuine status of XRL project to the Subcommittee during his call on 21 November 2013, he should resign.</p>	
020528 – 020939	Chairman Ms Cyd HO Administration MTRCL	<p>Referring to the findings of the Independent Review Report ("IRR") dated April 2014 submitted by DHY to STH (Annex C of the Administration's paper) and the approved budget vis-à-vis the current budget status of the XRL project, Ms Cyd HO expressed the following views –</p> <p>(a) she queried whether the revised target of 2017 was indeed achievable and whether the estimated overrun cost of \$3.4 billion was final as it appeared from the IRR's findings that the Administration had yet to assess the delay for some events/issues; and</p> <p>(b) the Administration should make claims, where justified, against the relevant consultants/contractors (e.g. consultant undertaking site investigation work) for the XRL project delay.</p> <p>The Administration explained the detailed monitoring mechanism of the XRL project as set out in the Administration's paper, pointing out that –</p> <p>(a) as recommended by the consultancy commissioned in 2008, the monitoring and verification role of the Government was "check the checker", i.e. verifying that MTRCL was implementing their process as specified; and</p> <p>(b) a dedicated division comprising 13 Civil Engineer posts under RDO was set up to oversee the implementation of the XRL project and to carry out monitoring and verification work using a risk-based sampling approach.</p>	

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020940 – 021050	Chairman Mr Gary FAN Ir Dr LO Wai-kwok	<p>The Chairman consulted members on whether to extend the meeting for 15 minutes from 6:45 pm to allow sufficient time for dealing with motions proposed by Mr Gary FAN and Mr WU Chi-wai respectively.</p> <p>As Ir Dr LO Wai-kwok objected to extension of the meeting, the Chairman advised that the motions would be dealt with at the additional meeting to be held.</p>	
021051 – 021454	Chairman Mr Tony TSE	<p>In response to Mr TSE Wai-chuen's enquiry, the Administration/MTRCL was requested to provide, with regard to the mitigating measures and delay recovery measures reassured by MTRCL at various junctures to maintain the target completion date of the HKS of XRL in 2015 ("the proposed measures"), a brief report on whether HyD and/or the external consultant employed by HyD (i.e. Jacobs China Limited) had conducted any independent assessment of the feasibility and effectiveness of the proposed measures to mitigate the delay at different stages and provided relevant advice to the Administration.</p>	Administration/ MTRCL to provide information/ response (paragraph 10(b) of minutes)
021455 – 021908	Chairman Mr LEE Cheuk-yan Mr Gary FAN Mr CHAN Kam-lam	<p>Mr Gary FAN criticized that the Chairman had allowed more members than scheduled to speak, instead of dealing with the proposed motions during the extended meeting time as agreed.</p> <p>Mr LEE Cheuk-yan suggested extending the meeting for 10 minutes from 6:45 pm to deal with members' proposed motions.</p> <p>As some members expressed objection to extending the meeting, the Chairman declared the meeting closed.</p> <p>Members agreed to hold a further meeting at 10:45 am on 19 May 2014 to continue discussion of the item.</p>	