

**立法會**  
***Legislative Council***

LC Paper No. FC153/15-16

Ref : FC/1/1(4)

**Finance Committee of the Legislative Council**

**Minutes of the 5<sup>th</sup> meeting  
held at Conference Room 1 of the Legislative Council Complex  
on Friday, 30 October 2015, at 3:00 pm**

**Members present:**

Hon CHAN Kin-por, BBS, JP (Chairman)  
Hon CHAN Kam-lam, SBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, 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 Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Starry LEE Wai-king, JP  
Dr Hon LAM Tai-fai, SBS, JP  
Hon CHAN Hak-kan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon CHEUNG Kwok-che  
Hon WONG Kwok-kin, SBS  
Hon IP Kwok-him, GBS, JP

Hon Mrs Regina IP LAU Suk-yee, 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, BBS  
Hon Frankie YICK Chi-ming, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon Gary FAN Kwok-wai  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Dr Hon Kenneth CHAN Ka-lok  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Kenneth LEUNG  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, JP  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu, JP  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS

**Members absent:**

Dr Hon LAU Wong-fat, GBM, GBS, JP  
Dr Hon LEUNG Ka-lau  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon Martin LIAO Cheung-kong, SBS, JP

**Public officers attending:**

Ms Elizabeth TSE Man-yee, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) <sup>1</sup>
Mr Alfred ZHI Jian-hong	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Mr Gregory SO Kam-leung, GBS, JP	Secretary for Commerce and Economic Development
Miss Susie HO Shuk-yee, JP	Permanent Secretary for Commerce and Economic Development (Communications and Technology)
Mr Joe WONG, JP	Deputy Secretary for Commerce and Economic Development (Communications and Technology)
Ms Annie CHOI Suk-han, JP	Commissioner for Innovation and Technology
Mr Johann WONG, JP	Deputy Commissioner for Innovation and Technology
Ir Allen YEUNG	Government Chief Information Officer
Mr Victor LAM Wai-kiu, JP	Deputy Government Chief Information Officer (Consulting and Operations)

**Clerk in attendance:**

Ms Anita SIT	Assistant Secretary General 1
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**Staff in attendance:**

Ms Connie FUNG	Legal Adviser
Mr Stephen LAM	Senior Assistant Legal Adviser 2

Mr Derek LO	Chief Council Secretary (1)5
Mr Raymond SZETO	Senior Council Secretary (1)7
Miss Queenie LAM	Senior Legislative Assistant (1)2
Mr Frankie WOO	Senior Legislative Assistant (1)3
Miss Yannes HO	Legislative Assistant (1)6

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Action

**Item No. 1 – FCR(2014-15)36B**

**NEW HEAD "GOVERNMENT SECRETARIAT : INNOVATION AND TECHNOLOGY BUREAU"**

**Subhead 000 Operational Expenses**

**Item No. 2 – FCR(2014-15)37B**

**NEW HEAD "GOVERNMENT SECRETARIAT : INNOVATION AND TECHNOLOGY BUREAU"**

**HEAD 47 – GOVERNMENT SECRETARIAT : OFFICE OF THE GOVERNMENT CHIEF INFORMATION OFFICER**

**HEAD 55 – GOVERNMENT SECRETARIAT : COMMERCE AND ECONOMIC DEVELOPMENT BUREAU (COMMUNICATIONS AND TECHNOLOGY BRANCH)**

**HEAD 155 – GOVERNMENT SECRETARIAT : INNOVATION AND TECHNOLOGY COMMISSION**

The Chairman said that two Finance Committee ("FC") meetings were scheduled for today to continue with the unfinished joint deliberation of the items FCR(2014-15)36B and FCR(2014-15)37B carried over from the last meeting.

2. The Chairman further advised that the item FCR(2014-15)36B invited the Committee's approval, in conjunction with FCR(2014-15)36 and 36A, for the creation of three non-civil service positions and four permanent civil service posts necessary for the establishment of Innovation and Technology Bureau ("ITB"). The item FCR(2014-15)37B invited the Committee's approval, in conjunction with FCR(2014-15)37 and 37A, for the changes to the 2015-16 Estimates of Expenditure to give effect to the establishment of ITB.

Handling of motions proposed to be moved under paragraph 37A of the Finance Committee Procedure

3. The Chairman said that pursuant to his direction made at the second meeting on 23 October 2015, six members had presented to him a total of 1 133 motions in respect of the items FCR(2014-15)36B and 37B proposed to be moved under paragraph 37A of the Finance Committee Procedure ("37A motions") as of noon, 27 October 2014. He had considered the motions with the assistance of the Legislative Council Secretariat ("the Secretariat") and ruled that 20 motions were in order. In his letters to the members who had submitted 37A motions, he had returned the rest of the motions to the members and suggested to them that the motions be consolidated or representative ones of them be selected for resubmission to him by 11:00 am today. In this regard, he had set respective limits on the number of consolidated or selected motions that might be resubmitted by the members. Dr Fernando CHEUNG had resubmitted three motions, all of which he had ruled to be in order. Mr LEUNG Kwok-hung had also resubmitted 31 motions, 21 of which he had ruled to be in order.

4. The Chairman said that upon the completion of the discussion on the items, the meeting would proceed to deal with the 44 motions that were in order, 32 related to FCR(2014-15)36B and 12 related to FCR(2014-15)37B.

5. The Chairman said that in making his decisions to set limits to the number of 37A motions that might be resubmitted by the members, he had taken into account the advice given to him by the Legal Adviser ("LA") and the Clerk to the Committee as well as the past practices of the Committee. To ensure the orderly, efficient and fair conduct of business by the Committee, he considered that those 37A motions pertinent to common themes should be consolidated. For instance, one member had submitted a large number of motions all concerning the arrangement of exchange tours to overseas countries with different combinations between the number of such tours and the countries to be visited. He considered that these motions could be consolidated into one motion covering the various proposed arrangements of exchange tours and such consolidated motion could still effectively express the members' view on the agenda item. That said, he had adopted a lenient approach and allowed the member to resubmit six motions pertaining to that theme.

6. On invitation by the Chairman, the Clerk said that the Chairman's decision to return 37A motions with common themes to members for consolidation or selection was in line with the relevant established practice of FC. Since the 2013-2014 session, upon receipt of quite a number of 37A

motions, the Secretariat would conduct a preliminary analysis of their contents including classifying motions according to common themes, so as to facilitate the FC Chairman to consider how the motions should be dealt with. In some cases, the FC Chairmen had decided to return 37A motions with common themes to the members concerned for consolidation or selection and set a limit to the number of consolidated/selected motions that might be resubmitted. The Clerk further said that where a motion was directly related to the agenda item concerned and was not found to be pertinent to the same theme as any other motions received, the Secretariat would recommend to the Chairman that the motion could be admitted for referral to the Committee to decide whether the motion should be proceeded with. On this occasion, as a very large number of the 37A motions received were found pertinent to common themes, the Secretariat had recommended to the Chairman that the members concerned might be asked to consolidate the motions or select representative ones in line with the aforesaid established practice.

7. The Chairman said that the Legal Service Division had prepared a document (LC Paper No. LS 6/15-16) explaining the legal basis for his decision to set limits on the number of 37A motions that members might propose. On invitation by the Chairman, LA explained the salient points of the document. In brief, the extent of the FC Chairman's power to chair meetings had been considered by the Court of First Instance in an application for leave for judicial review (HCAL 78/2014). Applying the Court of Final Appeal's judgment in *Leung Kwok Hung v President of the Legislative Council of the HKSAR* [2015] 1 HKC 195 which held that the President had the power to set limits to and terminate a debate which was inherent in, or incidental to, the power granted by Article 72(1) of the Basic Law to the President to preside over meetings and that it was not for the court to consider whether or not the power was properly exercised under the non-intervention principle, the Court of First Instance held that the FC Chairman similarly had such power to regulate the process of FC meetings under paragraph 13 of the FC Procedure, including the power to set limits to and terminate a debate, to ensure the orderly, efficient and fair disposition of its meetings, and under the non-intervention principle confirmed by the Court of Final Appeal in the above judgment, it was not for the court to determine the occasion on the manner of the exercise of this power. Based on the above authorities and given that proposing motions under paragraph 37A of the FC Procedure was part of the process of the FC meetings, the FC Chairman should have the power to regulate the handling of such motions, which might include setting limits on the number of motions that members might propose under paragraph 37A of the FC Procedure or imposing conditions, if he considered that this was necessary for the orderly, efficient and fair disposition of the meetings.

8. Mr Albert CHAN, Mr CHAN Chi-chuen, Mr LEUNG Kwok-hung and Mr WONG Yuk-man expressed grave dissatisfaction towards the Chairman's decision to ask members to consolidate their 37A motions and set limits on the number of 37A motions that might be proposed by members after consolidation. Mr Albert CHAN said that his motions were all distinct and could not be consolidated. The members also maintained that members' right to propose motions under paragraph 37A of the FC Procedure were not subject to the limits imposed by the Chairman, and accused the Chairman for violating the procedure. The members also expressed serious doubts about the impartiality of the Secretariat.

9. Mr CHAN Chi-chuen and Mr WONG Yuk-man queried the setting of deadline by the Chairman for the presentation of 37A motions, pointing out that paragraph 37A of the FC Procedure expressly provided for the moving of motions without notice. Mr CHAN Chi-chuen also opined that the limits set by the Chairman on the number of 37A motions that might be resubmitted by the members concerned were arbitrary. Mr LEUNG Kwok-hung expressed a similar view.

10. The Chairman said that while members might propose motions to be moved without notice under paragraph 37A of the FC Procedure, the Chairman had the power to set limits on the number of such motions that members might propose or impose conditions in the exercise of his power to chair meetings, if he considered that this was necessary for the orderly, efficient and fair disposition of the Committee's business.

11. Mr Albert CHAN queried the procedural basis on which the Secretariat could return 37A motions presented by members. The Chairman clarified that the decision to return the motions to members was made by him, and he would see to it that in future better arrangements be made in this regard.

12. Some members spoke loudly without permission. Mr MA Fung-kwok implored the Chairman to maintain order of the meeting. The Chairman reminded members not to speak without permission.

13. At 3:30 pm, Mr WONG Yuk-man, Mr CHAN Chi-chuen and Mr LEUNG Kwok-hung approached the Chairman's table to hand in their 37A motions. Mr WONG Yuk-man took a name plate on the Chairman's table and shattered it while knocking it at the Chairman's table. The Chairman ruled that the conduct of Mr WONG Yuk-man was grossly disorderly and ordered him to withdraw immediately from the meeting.

14. At 3:31 pm, the Chairman directed that the meeting be suspended.

15. The meeting was suspended at 3:31 pm and resumed at 3:42 pm.

16. When the meeting resumed, the Chairman allowed members to continue to express views on his decision to limit the number of consolidated 37A motions to be referred to the Committee for deciding whether they should be proceeded forthwith for the purpose of regulating the process of the Committee's meetings

17. Mr WONG Kwok-hing, Mr IP Kwok-him, Mr TAM Yiu-chung, Mr YIU Si-wing, Mr LEUNG Che-cheung, Mr Stephen HO, Mr CHAN Kam-lam and Mr CHAN Han-pan expressed support for the Chairman's decision. These members urged for the expeditious approval of the items without further delay.

18. Mr IP Kwok-him said that allowing the incessant presentation of 37A motions by members without limits was detrimental to the performance of functions of the Committee. Mr TAM Yiu-chung, Mr YIU Si-wing and Mr LEUNG Che-cheung expressed regrets about Mr WONG Yuk-man's grossly disorderly behaviour.

19. Mr Albert CHAN reiterated his strong disagreement with the Chairman's explanation on requiring him to consolidate his 37A motions and reiterated that his motions contained no sequential elements and there was no room for consolidation.

20. The Chairman said that while he would continue to accept 37A motions presented by members at the meeting as they have the right to propose such motions under paragraph 37A of the FC Procedure, he would decide whether to refer them to the Committee for decision in the exercise of his power to chair meetings under the FC Procedure.

21. Echoing an earlier question by Mr CHAN Chi-chuen, Mr LEUNG Yiu-chung, Ms Claudia MO, Mr TO Kun-sun, Mr Alan LEONG, Ms Cyd HO, Mr Kenneth LEUNG, Ms Emily LAU, Mr LEUNG Kwok-hung and Dr Fernando CHEUNG expressed grave concerns about the Chairman's decisions of setting a deadline for presentation of 37A motions and limiting the number of 37A motions that members might propose, when paragraph 37A of the FC Procedure did not provide for such restrictions. The members considered the Chairman's decisions unfair and unjustified.

22. Mr LEUNG Kwok-hung contended that the Secretariat had failed to act impartially under the pressure of the Chairman.

23. Mr James TO and Mr Alan LEONG remarked that it had yet to be demonstrated that the handling of 37A motions by the Committee had seriously affected the orderly, efficient and fair disposition of the business of the Committee to justify the Chairman's decision to stop accepting 37A motions. They opined that the Chairman's decision to require the members concerned to consolidate or select their motions for resubmission and set limits to the number of consolidated or selected 37A motions was arbitrary. The members also contended that the courts had elected to refrain from interfering with the business of the Legislative Council and abide by the non-intervention principle so as to uphold the principle of the separation of powers, rather than acknowledging positively the exercise of the Chairman's power to end debates and stop handling 37A motions arbitrarily.

24. The Chairman reiterated that while members were entitled to propose motions under paragraph 37A of the FC Procedure without notice, he had the power to determine how the proposed 37A motions should be dealt within order to ensure that FC meetings were conducted in an orderly and efficient manner. The Chairman further said that in respect of the two agenda items, he had allowed sufficient time for members to raise questions and had repeatedly called on members to present 37A motions as soon as practicable.

25. In response to queries from members, LA said that the Legal Service Division of the Secretariat provided independent advice, from a legal perspective, to the Chairman on his power to chair FC meetings based on the recent court decisions. LA also confirmed that members had the right to propose motions without notice under paragraph 37A of the FC Procedure. On the other hand, the FC Chairman was vested with the power to chair meetings under paragraph 13 of the FC Procedure. Based on the recent judgment of the Court of First Instance, this power included the power to regulate the handling of 37A motions which was part of the process of the FC meetings by, for example, setting limits on the number of motions that members might propose under paragraph 37A of the FC Procedure or imposing conditions, if he considered that this was necessary for the orderly, efficient and fair disposition of the meetings. How the Chairman exercised this power, including how many 37A motions he would allow to be referred to the Committee, was a matter of judgment made by the Chairman independently.

26. The Clerk clarified that in analyzing 37A motions to facilitate the Chairman's determination of their admissibility, the Secretariat would not consider the merits of individual 37A motions. The Secretariat merely made recommendations on possible consolidation of motions if the motions were found to be pertinent to common themes.

Other issues

27. Mr LEUNG Yiu-chung expressed grave doubt about the Chairman's understanding that the items under consideration by the Committee should be approved expeditiously in accordance with the Administration's schedule. Ms Cyd HO expressed a similar view and said that the function of FC was to scrutinize and approve items proposed by the Administration, and it would not be justified for the Chairman to set a time limit to end debates and stop handling 37A motions so as to ensure that a certain item could be approved by a predetermined date.

28. The Chairman said that the Committee's deliberation on the items for the establishment of ITB had been seriously prolonged by filibustering and it was reasonable to put the items to vote expeditiously without further delay. While he understood that some members might not be satisfied with his decisions, he considered that his decisions were made within his power as the Chairman of FC and his decisions were justified.

29. At 4:58 pm, the Chairman directed to proceed to the last round of speaking by members and each member would be allowed two minutes of speaking time.

30. Mr Albert CHAN reiterated his opposition to the Chairman's decision to return the majority of his 37A motions and expressed doubt on the impartiality of the Secretariat.

31. At 5:01 pm, the Chairman directed that the meeting be now adjourned and discussion on the items be continued in the next meeting.

32. The meeting was adjourned at 5:01 pm.