

**立法會**  
***Legislative Council***

LC Paper No. FC255/15-16  
(These minutes have been  
seen by the Administration)

Ref : FC/1/1(18)

**Finance Committee of the Legislative Council**

**Minutes of the 33<sup>rd</sup> meeting**  
**held at Conference Room 1 of the Legislative Council Complex**  
**on Saturday, 20 February 2016, at 9:00 am**

**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 TAM Yiu-chung, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Vincent FANG Kang, SBS, JP  
Hon WONG Kwok-hing, BBS, MH  
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  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
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 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  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon POON Siu-ping, BBS, MH  
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  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Hon CHAN Hak-kan, JP  
Dr Hon LEUNG Ka-lau  
Hon CHEUNG Kwok-che  
Hon Claudia MO  
Dr Hon Kenneth CHAN Ka-lok  
Hon CHAN Yuen-han, SBS, JP  
Hon Kenneth LEUNG

Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Hon TANG Ka-piu, 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)1
Mr Alfred ZHI Jian-hong	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Prof Anthony CHEUNG, GBS, JP	Secretary for Transport and Housing
Mr Joseph LAI, JP	Permanent Secretary for Transport and Housing (Transport)
Ms Rebecca PUN Ting-ting, JP	Deputy Secretary for Transport and Housing (Transport) 1
Mr Peter LAU Ka-keung, JP	Director of Highways
Mr Jimmy CHAN Pai-ming, JP	Principal Government Engineer (Railway Development), Highways Department
Mr TAM Hon-choi	Government Engineer (Railway Development) 2, Highways Department
Dr Philco WONG	Projects Director, MTR Corporation Limited
Mr LEUNG Chi-lap	General Manager (XRL E&M), MTR Corporation Limited
Ms Maggie SO	General Manager (Corporate Relations), MTR Corporation Limited

**Clerk in attendance:**

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

Mr Derek LO	Chief Council Secretary (1)5
Mr Ken WOO	Senior Council Secretary (1)5
Mr Raymond SZETO	Senior Council Secretary (1)7
Mr Keith WONG	Council Secretary (1)5
Mr Frankie WOO	Senior Legislative Assistant (1)3
Miss Yannes HO	Legislative Assistant (1)6

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Action

**Item No. 1 – FCR(2015-16)46  
CAPITAL WORKS RESERVE FUND**

**HEAD 706 - HIGHWAYS**

**Transport - Railways**

**53TR - Hong Kong Section of Guangzhou - Shenzhen - Hong Kong Express  
Rail Link - construction of railway works**

**Item No. 2 – FCR(2015-16)47  
CAPITAL WORKS RESERVE FUND**

**HEAD 706 - HIGHWAYS**

**Transport - Railways**

**57TR - Hong Kong Section of Guangzhou - Shenzhen - Hong Kong Express  
Rail Link - construction of non-railway works**

Discussion on meeting procedure

Dr Fernando CHEUNG pointed out that, according to LC Paper No. LS35/15-16 issued by the Secretariat, the Deputy Chairman had directed to allow the Administration to have a shorter notice period for inclusion of the two items into the agenda of this meeting of the Committee. He queried whether the Deputy Chairman had the power to dispense with the requisite notice for the items. In addition, he considered that the fact the Chairman had told the media that he would not chair the meeting proceedings concerning these two agenda items did not mean that the power of the Chairman had been formally passed to the Deputy Chairman.

2. Mr Albert CHAN requested the Deputy Chairman to make it clear whether this meeting was called by him, as he had intention to take further legal action regarding whether or not the Deputy Chairman had the power to call a meeting.

3. The Deputy Chairman advised that regarding the questions raised by the two members, the Legal Adviser ("LA") had provided an explanation in LC Paper No. LS35/15-16. If they had further queries, they could directly raise them to LA. The Deputy Chairman further pointed out that this meeting was called by him and the meeting arrangement was in order. If members kept dwelling on issues other than those relating to the agenda, he would rule that their remarks were not in order and order the members to stop speaking.

4. The meeting continued with the deliberation on agenda items FCR(2015-16)46 and 47.

Monitoring the use of additional funding and the project progress

5. Mr Tony TSE sought clarification from the Administration on how the amount of additional funding for the Hong Kong Section of the Guangzhou - Shenzhen - Hong Kong Express Rail Link ("XRL") project was calculated, and whether the Government had engaged a consultant to review the accuracy of the amount determined by the MTR Corporation Limited ("MTRCL"). He also pointed out that part of the additional funding would be used for payment of claims made by project contractors for project delays and, according to the information provided, the amount of such claims had amounted to \$26.9 billion. He asked the Administration whether these claims were approved by MTRCL or by independent consultants, and whether the Administration would monitor the approval process. He opined that the past performance of MTRCL in approving the same types of claims was unsatisfactory and the Administration should participate in the approval process.

6. Secretary for Transport and Housing ("STH") explained that the "capped" project cost of \$84.42 billion had been verified by the Monitoring and Verification ("M&V") Consultant engaged by the Highways Department ("HyD") and the Administration had provided the Subcommittee on Matters Relating to Railways ("Railway Subcommittee") of the Legislative Council ("LegCo") with the details about the verification work in December 2015. Projects Director, MTRCL supplemented that MTRCL would process each claim in a prudent manner, and the contractors would be required to provide sufficient information for review. According to the existing mechanism, each claim would be stringently examined by MTRCL's Project Control Group, while the relevant information would also be submitted to HyD and its M&V Consultant for review.

7. Given that MTRCL had estimated that XRL's final project cost would be \$71.5 billion, Mr WU Chi-wai enquired why the cost increased to more than \$84.4 billion within a year. He sought details from the Administration on the breakdown of the cost increase.

8. STH explained that when MTRCL informed the Administration in 2014 of the delay and cost overrun of the project, the project cost estimate provided was \$71.5 billion. HyD's M&V Consultant considered the figure inaccurate after assessment and some factors were not reflected in the estimated cost. The then Independent Board Committee formed by MTRCL also considered the estimate of \$71.5 billion unreliable. As various parties had all along remained doubtful about the estimated figure, MTRCL was requested to estimate afresh. MTRCL eventually provided the latest estimated figure in June 2015. Projects Director, MTRCL supplemented that the estimate made in October 2014 was based on the then circumstances, but unfavorable ground conditions subsequently found in the tunnel excavation works, especially the cavern conditions of the cross-boundary tunnel section in Yuen Long District, had caused more difficulties to the project. The Deputy Chairman advised that if the authorities had details on the breakdown of the cost increase, they should submit to the Committee in writing after the meeting.

9. Referring to the paper submitted by MTRCL to the LegCo's Railway Subcommittee in 2015 (LC Paper No. CB(4)1228/14-15(01)), Mr Albert HO pointed out that factors leading to the increase in project cost estimate as explained by MTRCL in the paper at that time included "changes since/unaccounted items in the previous interim estimate". He sought explanation from MTRCL on the reasons why there were still items that had not yet implemented at that time, and whether those "unaccounted items" had led to the rapid increase in project cost estimate in 2015.

10. STH pointed out that the Administration was also concerned about the causes of the rapid increase in project cost estimate within a year. Projects Director, MTRCL explained that when MTRCL made the estimate in 2014, only two-third of the project had been completed, and as the project was faced with different challenges subsequently, various mitigation measures had to be undertaken, thereby leading to changes in a number of project designs. During that time, some facilities at the stabling sidings had to be increased after discussions with the relevant Mainland departments. All these together with the revised programme date and increase in working hours, had caused the project cost estimate to increase accordingly. As the circumstances that led to the cost increase had now become more certain, MTRCL considered the project cost estimate currently submitted to the Committee appropriate.

11. Mr Martin LIAO enquired whether a breakdown of the amounts of additional funding involved in each major works contract could be provided for the Committee if the Committee approved the additional funding. He also enquired whether MTRCL was required to sign new contracts with the contractors, and whether the Government would monitor the process leading to the signing of the new contracts. He also requested the Administration to clearly list out details about the changes in the contracts.

12. STH and Projects Director, MTRCL pointed out that the contracts signed with the contractors contained different terms and conditions, and the amounts involved in each contract were commercially sensitive information the disclosure of which was not appropriate. Disagreeing with the explanations given by the Administration and MTRCL, Mr Martin LIAO considered that the relevant amounts involved the use of public money and the Administration had the responsibility to provide the Committee with such information. STH remarked that he was aware of members' consideration and the authorities would study with MTRCL to see whether and how such information should be disclosed.

13. Mr Dennis KWOK enquired about the progress of 42 major works contracts in the XRL project, including the West Kowloon Terminus (North) project (Contract 810A) which involved the largest amount of project cost, and requested the Government to explain whether it would step up the monitoring of the progress of these 42 works contracts in the future.

14. STH and Director of Highways ("D of HyD") advised that HyD and its M&V Consultant had monitored the progress of these 42 works contracts and received the update on each contract by holding progress meetings with MTRCL. D of HyD supplemented that the paper submitted to the Public Works Subcommittee ("PWSC") in January 2016 (LC Paper No. PWSC105/15-16(01)) had clearly stated the project progress of those 42 works contracts as at 31 August 2015. The overall West Kowloon Terminus (North) project was 43% completed at that time, among which 61% of concrete structural works and 96% of station excavation works had been completed. He added that works involved in this contract were complicated, and therefore MTRCL had been particularly urged to pay attention to the works relating to removal of underlying rock, the station's concrete structural works and the steelwork fabrication for station entrance.

Suspension of the XRL project

15. Mr Gary FAN was dissatisfied that the Administration repeatedly pointed out that the XRL project could not be left unfinished, and he was worried that continuation of the project would lead to more additional costs, thereby causing the operation of XRL to incur losses in the future. He enquired, if the Government decided to suspend the project, whether MTRCL's current remaining \$4.8 billion entrustment cost for the project could be used to cover the expenses arising from suspension of the project, so as to reduce the funding amount required. STH advised that according to the Administration's assessment, XRL would bring economic and social benefits to Hong Kong upon completion; besides, the authorities had all along been seeking the Committee's approval of the funding application so as to continue with the project and had not calculated to see if the remaining entrustment cost could be used for payment of the additional expenses involved in suspension of the project.

16. Mr Jeffrey LAM considered that the Administration should clearly point out the deadline when the decision to suspend the project had to be made. STH explained that, if the project would be suspended temporarily, the Government had the responsibility to inform MTRCL as early as possible, so that MTRCL could study, how the remaining entrustment cost should be used to cover the additional expenses arising from suspension of the project in the event that no additional funding was obtained. In this connection, the Administration would seriously assess the situation with MTRCL at the end of February 2016, while March would be a high-risk period and the decision had to be made by then.

Pursuing the liability for cost overrun and project delay

17. Mr Dennis KWOK enquired about the way to assess MTRCL's liability, as the project manager, for delay of the project. He also requested the Administration to explain why the amount of cost overrun was not totally borne by MTRCL, and give an account on the scope where liability could be pursued when legal actions were taken against MTRCL in the future.

18. STH advised that the Administration would not and should not disclose the justifications for taking legal actions against MTRCL at a public forum. He explained that the Government indeed had strong views on the performance of MTRCL as the project manager of the XRL project, and had also engaged a Senior Counsel to examine issues involved in liability pursuits. According to legal opinions obtained at present, the Government had grounds for pursuing the MTRCL's liability. He added that, if the Government



initiated legal actions against MTRCL at this stage, the project might be further delayed, leading to more claims from the contractors, and therefore it had decided not to initiate legal procedures immediately.

19. Mr LEUNG Kwok-hung enquired when the Administration knew the XRL project had cost overrun. In response, STH advised that a notice from MTRCL was received in April 2014, stating that the estimated cost overrun for the project would be 10%. An application for additional funding was made to the Railway Subcommittee in December 2015, while XRL was originally anticipated to be commissioned at the end of 2015 when the project was first confirmed. Mr LEUNG Kwok-hung opined that at the time when the Administration applied for the additional funding, the commissioning date originally scheduled had already passed, indicating that the delays and cost overruns of the project had nothing to do with the "filibustering" activities conducted by pan-democratic members in the Council.

20. Dr Fernando CHEUNG said that, according to the Report of the Hong Kong Section of the Guangzhou - Shenzhen - Hong Kong Express Rail Link Independent Expert Panel, the Administration was aware of the delay of the XRL project as early as in the second half of 2013. Between August 2011 and May 2014, there were also a number of assessments indicating that individual works projects had been delayed for more than eight weeks. He criticized that it was misleading for the authorities to say that delay of the XRL project was not yet known in 2013. He sought explanation from the Administration on the liability to be undertaken by the Government and MTRCL for the delays and cost overruns of the project. STH reiterated that the Administration would pursue MTRCL's liability for delay of the project.

#### Co-location arrangements

21. Mr CHAN Chi-chuen, Mr Michael TIEN, Mr James TO and Mr Gary FAN were concerned about, if the co-location of customs, immigration and quarantine ("CIQ") facilities ("co-location arrangements") could not be implemented eventually, whether the Administration had any backup plan, and whether the Administration would consider adopting the arrangement of "separate-location of facilities", "CIQ clearance procedures at stations" or "CIQ clearance procedures on trains" to operate XRL upon its commissioning. Mr WU Chi-wai sought explanation from the Government on the following: since the commissioning of XRL was originally scheduled at the end of 2015, the Administration should have begun its discussion with the relevant Mainland departments on the clearance arrangements few years ago, and he requested the Government to give an account on the details about its discussion with the Mainland officials on the related matters in the past.

22. STH advised that since the XRL project was confirmed, a number of government departments had begun to study issues relating to the "co-location arrangements", and discussion with the relevant Mainland departments was still underway now. Should there be any concrete proposal, it would also be submitted to LegCo for approval. Saying that the "co-location arrangements" could not be implemented at present was a hypothetical remark and the Government would not comment on this. He added that the Administration had all along targeted at implementing the "co-location arrangements" and considered that the arrangement of "separate-location of facilities" would greatly affect the economic benefits of XRL.

23. Mr Alan LEONG pointed out that when the Government estimated the economic benefits of XRL in 2009, the factor of clearance mode was not taken into account. He requested the Administration to calculate the economic benefits of XRL on the basis of implementing the "co-location arrangements" and the arrangement of "separate-location of facilities" respectively. STH advised that the model for estimating economic benefits used in 2009 was made on the basis that XRL would be equipped with convenient clearance arrangements, and the Government would continue using that model to estimate the direct economic benefits of XRL. He added that the model used in 2009 was a conservative estimation. The Government tended to continue using that model to update the estimated figure for comparison purpose.

#### Procurement of XRL's signaling systems

24. Mr Albert CHAN pointed out that MTRCL awarded a contract for XRL's signaling systems to a Mainland company and the company was involved in the Mainland train accident in Wenzhou in 2011. He enquired whether the Administration knew that MTRCL had awarded this contract and the reasons why it did not wait until the Mainland accident investigation was completed to award the contract. He requested the Administration to provide written evidence to prove the safety of the systems.

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25. STH advised that the Administration knew that MTRCL had looked into the details about the Wenzhou train accident before awarding the contract concerned. D of HyD supplemented that the Department and its external consultant had reviewed MTRCL's tendering process in respect of technical systems. Projects Director, MTRCL advised that Contract No. 853 was a contract for the main control system, mainly used for indicating the overall train operation status, such as building services equipment, electricity supply, tunnel ventilation and train operation equipment, thus it was neither a signaling system nor a safety critical system. As the system concerned was not a signaling or

safety critical system, in considering awarding the contract, it was not necessary to refer to the investigation results of the Wenzhou train accident.

Use of XRL for military purpose

26. Pointing out that XRL's Stabling Sidings were located near the Shek Kong Barracks of the People's Liberation Army Hong Kong Garrison ("HK Garrison"), Mr Gary FAN enquired the Administration whether the HK Garrison had the right to use XRL for military purpose in the future.

27. STH explained that the HK Garrison should act in Hong Kong in accordance with the Garrison Law. The Garrison Law had clearly regulated the activities of the HK Garrison in Hong Kong. He reiterated that it could not simply assume that the railway would be used for military purpose just because the Stabling Sidings were located near the barracks. The Chairman advised that as a number of members had raised related questions with overlapping contents, he would not allow members to raise the same question again.

Operation of XRL in the future

28. Mr Charles MOK queried that the Administration's financial assessments in respect of XRL's operation were too optimistic and had not taken into account the impact of external factors on XRL's operation. He requested the Government to explain whether the best and the worst operating situations had been taken into account in its assessments, and how the repair and maintenance costs for railway were calculated.

29. STH explained that when the XRL project was confirmed in 2009, analysis on the most optimistic and most pessimistic scenarios was not included in the Administration's estimation model in respect of the XRL's operating situation. Based on the estimation model, the Government had now updated the patronage forecast and worked out the estimated revenue after taking into account the fare sharing with the Mainland by a mileage-based model in order to forecast the operating situation of XRL. As for non-fare revenue and cost, the Administration would take into account general inflationary factors in the estimation and the estimated gross margins so obtained were also similar to the estimate made in 2009.

30. The meeting was adjourned at 11:00 am.