

立法會

Legislative Council

LC Paper No. FC290/15-16

(These minutes have been
seen by the Administration)

Ref : FC/1/1(18)

Finance Committee of the Legislative Council

Minutes of the 36th meeting held at Conference Room 1 of the Legislative Council Complex on Saturday, 20 February 2016, at 4:41 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 LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, 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
Hon CHAN Han-pan, 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 Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Hon Albert CHAN Wai-yip
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 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 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 Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS

Members absent:

Hon James TO Kun-sun
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Dr Hon LAM Tai-fai, SBS, JP
Dr Hon LEUNG Ka-lau
Hon Paul TSE Wai-chun, JP

Hon WONG Yuk-man
Hon Alice MAK Mei-kuen, BBS, JP
Hon Dennis KWOK
Hon TANG Ka-piu, JP
Hon CHUNG Kwok-pan

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
--------------	-------------------------------

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
Ms Michelle NIEN	Legislative Assistant (1)5

Action

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

HEAD 706 – HIGHWAYS

Transport – Railway

**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 – Railway

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

The Deputy Chairman advised that the Finance Committee ("FC") continued with the combined deliberation on the items FCR(2015-16) 46 and 47.

2. Ms Cyd HO was concerned that during the last meeting held that day, the Deputy Chairman indicated that Mr LEUNG Kwok-hung was allowed to speak. However, the microphone at the table of Mr LEUNG was not turned on. She requested the Secretariat to instruct the control panel staff to follow the instruction of the Chairman to turn on the microphone at the table of members. The Deputy Chairman said that he had instructed the control panel staff to turn off the microphone of a member 10 seconds after his/her speaking time was over. However, when there were several members speaking at the meeting concurrently, the work of the control panel might be affected.

3. Ms Claudia MO was concerned that upon completion of the Hong Kong Section ("HKS") of Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"), the Administration might implement the co-location of customs, immigration and quarantine ("CIQ") facilities ("co-location arrangements") in Hong Kong on the ground that the XRL must commence operation. She also expressed concern over the MTR Corporation Limited ("MTRCL")'s move in paying Special Dividends to shareholders so as to gain support for the continuation of the HKS of XRL project which had incurred serious cost overrun. She pointed out that as the majority shareholder of MTRCL, the Government on one hand could obtain handsome dividends, but on the other hand, it had to bear the considerable project cost overrun while MTRCL had to raise huge debts itself in order to pay the Special Dividends. She considered such move was indeed playing financial tactics.

Motion to adjourn further proceedings of the Committee

4. At 4:49 pm, Ms Claudia MO moved a motion under paragraph 39 of the Finance Committee Procedure that further proceedings of the Committee be then adjourned. The Deputy Chairman thereupon proposed the question that further proceedings of the Committee be then adjourned. The Deputy Chairman directed that each member, when speaking on the motion, might speak once for not more than three minutes.

5. Ms Claudia MO explained the purpose of moving the motion. She was dissatisfied with the Administration for seeking additional funding from the FC when concrete option on the CIQ arrangement for the HKS of XRL project was not yet available; whereas for MTRCL, by paying Special Dividends, it sought for the continued implementation of the XRL project which had incurred serious cost overrun. From the perspective of public finance, it was also grossly inappropriate.

6. Mr Gary FAN, Dr KWOK Ka-ki, Mr Kenneth LEUNG, Mr LEUNG Yiu-chung, Mr CHEUNG Kwok-che, Mr Frederick FUNG, Mr LEE Cheuk-yan, Ms Emily LAU, Mr Charles Peter MOK, Ms Cyd HO, Mr WU Chi-wai, Mr Alan LEONG, Dr Helena WONG, Mr CHAN Chi-chuen, Mr LEUNG Kwok-hung, Mr Albert CHAN, Dr Fernando CHEUNG, Mr IP Kin-yuen and Dr Kenneth CHAN spoke in support of Ms Claudia MO's motion. These members opined that there was no clear explanation for the various problems involved in the additional funding application, including the question of who should bear the responsibility for the cost overrun, whether MTRCL was capable of further underwriting the possible cost overrun, how the Administration would hold the former principal officials in-charge of the

HKS of XRL project accountable under the Accountability System, the cost effectiveness of the project, frequency of trains and fare setting, etc. Members were particularly concerned that if the co-location arrangements were implemented at West Kowloon Terminus, Mainland law enforcement agencies might enforce Mainland laws in Hong Kong, thus dealing a severe blow to the Basic Law and the "one country, two systems" principle. In view of the above considerations, these members considered that further proceedings of the FC should be adjourned so that the Administration could examine in detail the various issues and put forth concrete plans for the CIQ arrangement before submitting the additional funding proposal for consideration by the FC.

7. In addition, Mr Kenneth LEUNG and Mr Charles Peter MOK advocated the application of magnetic levitation ("maglev") for the trains of HKS of XRL, pointing out that the cost effectiveness brought about by the time saved through the application of the maglev technology was sufficient to offset the inconvenience brought to passengers due to the adoption of a separate-location model of CIQ facilities. They hoped that through the adjournment, the Administration could have the time to consider the suggestion.

8. Expressing opposition to Ms Claudia MO's motion, both Dr Priscilla LEUNG and Ms Starry LEE opined that while the co-location arrangements warranted more discussion, such issue should be separated from the additional funding proposal. The adjournment of the Committee at the moment served no useful purpose of resolving the problems currently confronted, but would only leave the XRL project unfinished and cause substantial public financial loss.

9. In response to the motion, Secretary for Transport and Housing ("STH") reiterated that the co-location arrangements would only be proceeded under the premise that the principles of "one country, two systems" and the Basic Law would not be contravened. Such arrangement would be pursued only after the Administration had consulted the Legislative Council and obtained its consent on the concrete proposal.

10. Ms Claudia MO spoke in reply in respect of her motion. The Deputy Chairman then put Ms MO's motion to vote. At the request of members, the Deputy Chairman ordered a division and the division bell was rung for five minutes.

11. The Deputy Chairman declared that 21 members voted in favour of, and 26 members voted against the motion. The votes of individual members were as follows –

For:

Mr Albert HO Chun-yan	Mr LEE Cheuk-yan
Mr LEUNG Yiu-chung	Ms Emily LAU Wai-hing
Mr Frederick FUNG Kin-kee	Prof Joseph LEE Kok-long
Ms Cyd HO Sau-lan	Mr CHEUNG Kwok-che
Mr Alan LEONG Kah-kit	Mr LEUNG Kwok-hung
Mr Albert CHAN Wai-yip	Ms Claudia MO
Mr WU Chi-wai	Mr Gary FAN Kwok-wai
Mr Charles Peter MOK	Mr CHAN Chi-chuen
Dr Kenneth CHAN Ka-lok	Mr Kenneth LEUNG
Dr Fernando CHEUNG Chiu-hung	Dr Helena WONG Pik-wan
Mr IP Kin-yuen	
(21 members)	

Against:

Mr TAM Yiu-chung	Mr Vincent FANG Kang
Mr WONG Kwok-hing	Mr Jeffrey LAM Kin-fung
Mr Andrew LEUNG Kwan-yuen	Mr WONG Ting-kwong
Ms Starry LEE Wai-king	Mr CHAN Hak-kan
Mr WONG Kwok-kin	Mr IP Kwok-him
Mrs Regina IP LAU Suk-ye	Mr James TIEN Pei-chun
Mr Steven HO Chun-yin	Mr Frankie YICK Chi-ming
Mr YIU Si-wing	Mr MA Fung-kwok
Mr CHAN Han-pan	Miss CHAN Yuen-han
Mr LEUNG Che-cheung	Mr KWOK Wai-keung
Mr Christopher CHEUNG Wah-fung	Dr Elizabeth QUAT
Mr POON Siu-ping	Ir Dr LO Wai-kwok
Mr Christopher CHUNG Shu-kun	Mr Tony TSE Wai-chuen
(26 members)	

12. The Deputy Chairman declared that the motion was negatived.

Continuation with the combined discussion on items FCR(2015-16) 46 & 47

13. The FC continued with the combined discussion on items FCR(2015-16) 46 & 47.

Financial issues of the project

14. Ms Claudia MO enquired whether the Administration had made an estimation of the public financial loss caused by the delay in the HKS of XRL project and whether the Administration would try to recover such loss from MTRCL. Ms Cyd HO asked about the interest expenses incurred by raising debts for paying the Special Dividend by MTRCL, as well as the amount of fare revenue and non-fare revenue from the HKS of XRL that would be used to cover those interest expenses.

15. STH replied that the public financial loss incurred as a result of the delay in the HKS of XRL project was the amount of additional funding currently sought. While the Government was the majority shareholder of MTRCL, according to the law, the interest of the majority shareholder should not override that of the minor shareholders. Nevertheless, the Government would definitely pursue MTRCL's liability regarding the delay in the XRL project.

16. Mr Albert HO asked the Administration to clarify whether MTRCL would be fully responsible for the claims of \$20 odd billion filed by its contractors, and whether the Administration would not be allowed to seek, on the ground that MTRCL was unable to settle the claims, further funding from the FC in future. STH pointed out that the Government and MTRCL had reached an agreement in respect of the revised entrustment fee for the XRL project to be capped at the sum of \$84.42 billion. MTRCL had already set aside from the sum a provision to settle contractors' claims. However, if the Government requested MTRCL to suspend the project or terminate the contracts, the additional claims thus made were not within the capped entrustment cost stipulated in the agreement.

Monitoring the project

17. Dr Helena WONG asked what measures were put in place to prevent further cost overrun and delay in the HKS of XRL project. Director of Highways ("DHy") replied that the Administration had taken the advice of the XRL Independent Expert Panel, which included inviting the monitoring and verification ("M&V") consultant of the Highways Department ("HyD") to attend the monthly meeting of the Project Supervision Committee, increasing manpower to supervise the work progress, requesting MTRCL to submit regular reports on various projects, adopting the "traffic light" system in reporting work progress, etc.

18. Ms Emily LAU sought clarification on whether the difficult geological condition encountered in the HKS of XRL project was a result of the perfunctory advance works. She criticized HyD for not taking the advice of the M&V consultant and placing blind trust in the works reports made unilaterally by MTRCL; as a result, it was unable to realize the cost overrun and delay in the project. DHy said that there was no difference in the site investigation carried out for the advance works of the HKS of XRL project and that for other projects with similar scale. Regarding the suggestion by MTRCL that the delay was caused by unforeseeable geological conditions, the Administration was still reviewing the underlying justifications and reasons. DHy stressed that the Administration had all along carefully examined the reports of the M&V consultant and had as early as in 2013 urged MTRCL to review and submit an updated project programme in the light of the works progress.

19. Mr Albert CHAN noted that the Beijing HollySys Co Ltd. was awarded the contracts on the main control and signaling system for the HKS of XRL project. He was concerned that this company, which had never been awarded any related contract in regions outside China before it was awarded the said contracts, might lack international experience, which was particularly vital to such major projects. DHy explained that before the contracts were awarded, HyD had suggested MTRCL appoint an independent consultant to give advice on tender assessment. Subsequently MTRCL appointed an independent consultant to assess the tenders on their compliance with the technical requirements.

Patronage forecast

20. In comparing the latest patronage forecast for XRL in 2015 with that in 2009, Mr LEUNG Yiu-chung requested the Administration to explain why the patronage of short-haul services was adjusted downward while that of long-haul services was adjusted upward in view of a projected decline in local population growth and a slowdown in economic growth of the Pearl River Delta Region. DHy explained that the growth in population and gross domestic product locally and in the area of the Guangdong Province was expected to decelerate in the short run. This would affect the growth in the patronage of short-haul services. With the gradual expansion and improvement in the high-speed rail network in the Mainland, it was expected that passengers looking for long-haul transport services would opt for high-speed rail for convenience sake.

21. At 6:40 pm, the Deputy Chairman declared that the meeting be adjourned and deliberation on the item would continue at the next meeting.

22. The meeting closed at 6:40 pm.

Legislative Council Secretariat

22 August 2016