

立法會
Legislative Council

LC Paper No. CB(3) 611/16-17

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Tel : 3919 3300

Date : 29 May 2017

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 7 June 2017

Motion under Article 73(9) of the Basic Law

Hon Alvin YEUNG will move the attached motion under Article 73(9) of the Basic Law at the above meeting. The motion is jointly initiated by 28 Members and will be moved by Hon Alvin YEUNG to charge the Chief Executive Mr LEUNG Chun-ying who refused to resign within a reasonable time with serious breach of law and/or dereliction of duty and hence, to give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee to investigate the relevant matters and report its findings to the Council. The President has directed that the motion be printed in the terms in which it was handed in on the Agenda of the Council.

2. The manner of debating the motion will follow Rule 33 of the Rules of Procedure (“RoP”) under which the President will:

- (a) first call upon Hon Alvin YEUNG to speak and move the motion;
- (b) propose the question on the motion;
- (c) invite public officer(s) (to be advised by the Administration) to speak;
- (d) invite other Members to speak;

- (e) invite the public officer(s) to speak again after all Members who wish to speak have spoken (after the public officer(s) has/have spoken, no Member may speak); and
- (f) call upon Hon Alvin YEUNG to reply and put to vote the question on the motion.

3. In accordance with RoP 36(5) and 38(1), each Member may only speak once in the debate with a speaking time limit of 15 minutes, but the mover of the motion may speak twice for up to 15 minutes each time.

4. Under RoP 46(2), the passage of the motion shall require a majority vote of each of the following two groups of Members present:

- (a) Members returned by functional constituencies; and
- (b) Members returned by geographical constituencies through direct elections.

5. Members are invited to note that if the motion is passed, the Clerk to the Legislative Council will inform the Chief Justice of the Court of Final Appeal of the Council's decision for him to form and chair an independent investigation committee to investigate the charges. If the motion is negatived, by virtue of RoP 32(2), no further motion may be moved in relation to the same charges during the current session.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

Legislative Council meeting on 7 June 2017

Hon Alvin YEUNG, Hon James TO Kun-sun, Hon LEUNG Yiu-chung, Prof Hon Joseph LEE Kok-long, Hon LEUNG Kwok-hung, Hon Claudia MO, Hon WU Chi-wai, Hon Charles Peter MOK, Hon CHAN Chi-chuen, Hon Kenneth LEUNG, Dr Hon KWOK Ka-ki, Hon Dennis KWOK Wing-hang, Dr Hon Fernando CHEUNG Chiu-hung, Dr Hon Helena WONG Pik-wan, Hon IP Kin-yuen, Hon Andrew WAN Siu-kin, Hon CHU Hoi-dick, Hon LAM Cheuk-ting, Hon SHIU Ka-chun, Dr Hon Pierre CHAN, Hon Tanya CHAN, Hon HUI Chi-fung, Dr Hon CHENG Chung-tai, Hon KWONG Chun-yu, Hon Jeremy TAM Man-ho, Hon Nathan LAW Kwun-chung, Dr Hon YIU Chung-yim, Dr Hon LAU Siu-lai

Motion under Article 73(9) of the Basic Law

Wording of the Motion

Whereas not less than one-fourth of all the Members of this Council have jointly initiated this motion charging the Chief Executive Mr LEUNG Chun-ying with serious breach of law and/or dereliction of duty (as particularized in the Schedule and Annex appended to this motion), and whereas the said Mr LEUNG Chun-ying has refused to resign within a reasonable time, this Council, in accordance with Article 73(9) of the Basic Law, hereby gives a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee to investigate the alleged serious breaches of law and/or dereliction of duty and report its findings to this Council.

Schedule

Particulars of serious breaches of law and/or dereliction of duty of the Chief Executive Mr LEUNG Chun-ying:

Contempt of the Legislative Council by improperly interfering with the affairs of the Select Committee of this Council in dereliction of his constitutional duty as the head of the Hong Kong Special Administrative Region under Articles 47, 60 and 64 of the Basic Law

While being the Chief Executive of the Hong Kong Special Administrative Region (the “**HKSAR**”), and as the subject of inquiry of the Select Committee to Inquire into Matters about the Agreement between Mr LEUNG Chun-ying and the Australian firm UGL Limited (the “**Select Committee**”), Mr LEUNG Chun-ying conspired with and/or worked through Hon Holden CHOW Ho-ding to improperly interfere with the affairs of the Select Committee in an attempt to frustrate, deflect or affect the direction, course and result of the inquiry to be carried out by the Select Committee (as particularized in the Annex appended hereto). Mr LEUNG Chun-ying’s conduct is in violation of his oath taken in accordance with the constitutional requirement, i.e. the Chief Executive of the HKSAR “will uphold the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, bear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China and serve the Hong Kong Special Administrative Region conscientiously, dutifully, in full accordance with the law, honestly and with integrity”; and in violation of his constitutional duty to be a person of integrity, dedicated to his office, and to implement faithfully the Basic Law and other laws of the HKSAR. In all of these, Mr LEUNG Chun-ying has acted in contempt of the Legislative Council and in dereliction of his constitutional duty as the Chief Executive of the HKSAR under Articles 47, 60 and 64 of the Basic Law.

Annex

- (1) In October 2014, it was reported that Mr LEUNG Chun-ying, the Chief Executive (“CE”), signed an agreement in 2011 with UGL Limited (“UGL”), in relation to its takeover of DTZ Holdings plc (“DTZ”), a real estate services company listed in the United Kingdom in which Mr LEUNG had a direct stake. In the agreement, UGL undertook to pay Mr LEUNG £4 million (HK\$50 million) in two instalments at end-2012 and end-2013 respectively, subject to specific conditions. As these payments concurred with the term of office of Mr LEUNG as the fourth CE between 2012 and 2017, they have aroused concerns of the public and Members in respect of the nature of payments, the presence or otherwise of potential conflict of interests, the relevant systems of declaration of interests and taxation implications.
- (2) At the Council meeting of 2 November 2016, the petition co-signed and presented by Hon Kenneth LEUNG and Hon Andrew WAN was referred to a select committee for inquiring into the incident mentioned in paragraph (1).
- (3) On 3 February 2017, the House Committee of the Legislative Council (“LegCo”) nominated and elected members for appointment to the Select Committee to Inquire into Matters about the Agreement between Mr LEUNG Chun-ying and the Australian firm UGL Limited (“the Select Committee”). Eleven Members were elected as members of the Select Committee, and they elected from among themselves Hon Paul TSE Wai-chun and Hon Holden CHOW Ho-ding as the Chairman and Deputy Chairman of the Select Committee respectively.
- (4) On 1 March 2017, the LegCo Secretariat issued a paper titled ‘Proposed major areas of study’ (LC Paper No. CB(2)904/16-17(03)) with the purpose of inviting members to consider the proposed major areas of study of the Select Committee.

(5) Deputy Chairman of the Select Committee, Hon Holden CHOW Ho-ding, later made amendments to the proposed major areas of study and submitted an amended version (LC Paper No. CB(2)1285/16-17(01)) to the Select Committee.

(6) In the meeting of 25 April 2017, the Select Committee discussed Hon Holden CHOW Ho-ding's amended version. During the meeting, Hon Holden CHOW Ho-ding did not mention that the amended version was written by the subject of inquiry of the Select Committee, Mr LEUNG Chun-ying, and repeatedly said the amended version was written by him, and said the following:

「主席，我作為喺呢個修改裡面嘅起草者，我喺呢度做呢個工作呢，我對某啲嘅嘢，請原諒我，我係有啲堅持。」

(Translation: Chairman, as the drafter of this amended version, to do this work here, when it comes to certain things, forgive me, I insist on my own views.)

(7) On 15 May 2017, the media publicized a copy of Hon Holden CHOW Ho-ding's amended version of the proposed major areas of study with mark-ups. All of the mark-up comments showed that the amendments were made by 'CEO-CE', which is the abbreviation for 'Chief Executive Office – Chief Executive', and that the amendments were made on 20 April 2017.

(8) In the morning of 16 May 2017, the subject of inquiry of the Select Committee, Mr LEUNG Chun-ying, admitted that Hon Holden CHOW Ho-ding's amended version was written by him.

(9) When meeting with the media in the afternoon of 16 May 2017, Hon Holden CHOW Ho-ding admitted that he had discussed the amendments to the proposed major areas of study with Mr LEUNG Chun-ying. He said that in the process, he contributed his own views, and Mr LEUNG Chun-ying eventually consolidated their views to form the amended version submitted by Hon Holden CHOW Ho-ding to the Select Committee.

- (10) Article 47 of the Basic Law reads as follows:

The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties.

- (11) Article 60 of the Basic Law reads as follows:

The head of the Government of the Hong Kong Special Administrative Region shall be the Chief Executive of the Region.

- (12) Article 64 of the Basic Law reads as follows:

The Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure.