

**President's ruling on Committee stage amendments  
proposed by 17 Members to the Appropriation Bill 2015**

Seventeen Members have respectively given notice to move a total of 3 904 Committee stage amendments (“CSAs”) to the Schedule to the Appropriation Bill 2015 (“the 2015 Bill”) at the Council meeting of 22 April 2015 as follows:

- (a) Hon WU Chi-wai proposes one CSA to reduce the provision for one Head of Expenditure;
- (b) Dr Hon Helena WONG proposes two CSAs to reduce the provisions for two Heads of Expenditure;
- (c) Hon Albert HO proposes three CSAs to reduce the provisions for two Heads of Expenditure;
- (d) Hon Emily LAU and Hon CHEUNG Kwok-che each proposes three CSAs to reduce the provisions for three Heads of Expenditure;
- (e) Hon James TO proposes four CSAs to reduce the provisions for one Head of Expenditure;
- (f) Hon Claudia MO proposes four CSAs to reduce the provisions for three Heads of Expenditure;
- (g) Dr Hon Kenneth CHAN and Dr Hon Fernando CHEUNG each proposes four CSAs to reduce the provisions for four Heads of Expenditure;
- (h) Dr Hon KWOK Ka-ki proposes six CSAs to reduce the provisions for six Heads of Expenditure;
- (i) Hon LEE Cheuk-yan proposes nine CSAs to reduce the provisions for four Heads of Expenditure;
- (j) Hon Cyd HO proposes 10 CSAs to reduce the provisions for four Heads of Expenditure;

- (k) Hon Gary FAN proposes 11 CSAs to reduce the provisions for 10 Heads of Expenditure;
- (l) Hon WONG Yuk-man proposes 100 CSAs to reduce the provisions for 18 Heads of Expenditure;
- (m) Hon CHAN Chi-chuen proposes 191 CSAs to reduce the provisions for 35 Heads of Expenditure;
- (n) Hon Albert CHAN proposes 200 CSAs to reduce the provisions for 42 Heads of Expenditure; and
- (o) Hon LEUNG Kwok-hung proposes 3 349 CSAs to reduce the provisions for 80 Heads of Expenditure.

2. In considering whether the CSAs proposed by the 17 Members to the 2015 Bill are in order under the Rules of Procedure (“RoP”), I invited the Administration to comment on the CSAs and the Members to respond to the Administration’s comments on their CSAs. The Administration’s written comments on the CSAs have been provided to the Members.

### **The Administration’s comments**

3. The Administration’s views on the proposed 3 904 CSAs to the 2015 Bill are in **Appendix I**. In gist, the Administration is of the view that all the CSAs should not be admitted for the following reasons –

- (a) the CSAs, if admitted, would unduly prolong the legislative process and prevent the Legislative Council (“LegCo”) from properly exercising and discharging its function to examine and approve budgets introduced by the Government under Article 73(2) of the Basic Law (“BL 73(2)”);
- (b) the contents of all the 3 740 CSAs proposed by Hon LEUNG Kwok-hung, Hon Albert CHAN and Hon CHAN Chi-chuen bear no relationship with their purported goals of filibustering, and none of their purported goals is relevant to the subject matter of the 2015 Bill and hence the proposed CSAs infringe Rule 57(4)(a) of the RoP;

- (c) it would be wrong in principle if not wholly unconstitutional for LegCo to admit and consider 2 371 CSAs the effect of which will hinder the Government from meeting its obligations to implement laws passed by the Council under BL 64 or subject the Government to the potential risk of breaching its contractual obligations as an Employer;
- (d) it would be contradictory for LegCo to consider 28 CSAs which seek to withhold the funding for the relevant schemes that have been separately approved by LegCo or the Finance Committee;
- (e) 2 843 CSAs proposed by a single Member which seek to reduce a series of major expenditure provisions across 69 bureaux/departments, if admitted and passed, would seriously disrupt the operation of the Government. As these CSAs relate to the operation of the Government, they cannot be introduced under BL 74; and
- (f) 240 sets of CSAs proposed by different Members are identical and 68 CSAs are technically inaccurate.

4. The Administration also submits that the timely passage of the 2015 Bill is critical as the interim funding secured through the Vote on Account resolution pending the passage of the 2015 Bill would only be sufficient to sustain public services for the months of April and May 2015. The Administration therefore invites me to exercise my powers under BL 72(1) and the RoP to rule out all the CSAs in the wider public interest.

### **Members' responses**

5. Except Dr Hon Kenneth CHAN, Dr Hon KWOK Ka-ki and Hon LEUNG Kwok-hung, the other 14 Members either have no comments on or have not responded to the Administration's views.

### Dr Hon Kenneth CHAN's response

6. Dr Hon Kenneth CHAN considers that the Administration's views on Members' proposed CSAs have shown its arrogance and complacency by asking LegCo to do what it says about the CSAs, and its intention to bulldoze the 2015 Bill through LegCo as fast as it can. He urges me to remind the Administration that it has no role in how LegCo plans its proceedings on the 2015 Bill.

Dr Hon KWOK Ka-ki's response

7. Dr Hon KWOK Ka-ki expresses strong dissatisfaction with the Administration's comments. He hopes that I can safeguard Members' right to monitor the Government's governance, and allow Members to move their CSAs.

Hon LEUNG Kwok-hung's response

8. Hon LEUNG Kwok-hung disagrees with the Administration's views on the proposed CSAs for the following reasons –

- (a) each of his CSAs is relevant to the 2015 Bill with an objective of targeting at public officers who have performed poorly, unnecessary operating expenditures of Government departments, unnecessary posts or new posts, or unnecessary projects or activities;
- (b) the Administration has no grounds to judge whether the CSAs are meaningless until the proposers explain the CSAs in committee of the whole Council;
- (c) the Government is accountable to LegCo, even if the passage of a CSA will render it unable to implement laws passed by LegCo under BL 64;
- (d) the merits of CSAs and their impact on public services should not be relevant to the consideration of admissibility of the CSAs;
- (e) his CSAs are proposed in the light of my ruling on the CSAs to the Appropriation Bill 2014 ("the 2014 Bill") to provide fair and genuine choices for Members; and
- (f) notwithstanding his proposing of a voluminous number of CSAs, I may control the time for debate in the exercise of my power under BL 72(1) to ensure that LegCo will not be prevented from its proper exercise and discharge of its constitutional functions.

9. In gist, Hon LEUNG Kwok-hung submits that his proposed CSAs are not frivolous or meaningless.

## **My opinion**

10. Under BL 73(2), LegCo has the power and function to examine and approve budgets introduced by the Government. Proposing amendments to and debate on an appropriation bill and the relevant estimates of expenditure which are subject to the Council's examination are part and parcel of the legislative process for enacting the bill.

11. The legislative process for the examination, deliberation and enactment of an appropriation bill is set out in Rules 67 to 70 of the RoP. Following the presentation of an appropriation bill and the estimates containing the details of expenditure for the relevant financial year by the Financial Secretary to the Council under Rule 52(2) of the RoP, the Second Reading debate on the bill is adjourned and the estimates of expenditure are referred by me to the Finance Committee for examination before consideration of the bill in committee of the whole Council pursuant to Rule 71(11) of the RoP. The Finance Committee holds a series of special meetings and Members raise written questions seeking information on details of public expenditure.

12. Under Rule 69 of the RoP, Members may move amendments to any head of expenditure contained in the appropriation bill to reduce the sums allotted thereto in respect of any subhead/item therein, provided that the amendments comply with the prescribed form. The proposer of an amendment to reduce the appropriation to a particular head of expenditure is not required by the RoP to set out the objective to be achieved by reducing the proposed amount. Over the years, however, the Council has established the practice for the proposer to expressly state the objective of his/her amendment in giving notice, to facilitate Members to focus their deliberation on the proposed amendment in committee of the whole Council. This notwithstanding, the passage of a proposed amendment has the effect of only reducing the amount of appropriation to the specified head of expenditure, and the Administration is not mandated to implement the objective of the amendment as intended by the proposer.

13. This is the third successive year in which a large number of CSAs are proposed by a few Members to an appropriation bill. The total number of CSAs proposed to such a bill has risen from 762 in 2013 to 1 917 in 2014 and further to 3 904 this year. Before deciding on the admissibility of the voluminous number of CSAs to the 2015 Bill, it is incumbent upon me to first review the Council's experience in the disposal of the proposed amendments in the past two years.

14. In 2013, I ruled admissible a total of 220 sequential CSAs to the Appropriation Bill 2013 (“the 2013 Bill”), each of which sought to reduce the appropriation to a particular Head of Expenditure for a specific purpose by a sequentially varying amount. I did not consider them to be frivolous or meaningless under Rule 57(4)(d) of the RoP. In my view then, the passage of any one of such amendments in a series would serve a substantive purpose and the passage of one such amendment vis-a-vis another in the same series would make a material difference<sup>1</sup>. I categorically stated in my ruling that I should not deprive Members’ right to propose certain amendments unless the admission of those amendments would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under BL<sup>2</sup>.

15. The Council’s experience, however, convinced me that the moving of sequential CSAs achieved no purpose other than taking up the Council’s time in completing the necessary proceedings. In the long debates lasting 67 hours on the proposed amendments to the 2013 Bill in committee of the whole Council, the proposers hardly explained the difference between the successive amendments in the sequential CSAs, and there was no exchange of views among Members on those CSAs. All the sequential CSAs were voted down by an overwhelming majority of Members.

16. In the light of the Council’s experience in the disposal of the sequential CSAs to the 2013 Bill, I considered that the Member proposing the sequential CSAs was not inviting committee of the whole Council to examine any fair and genuine choices of proposed reductions to the respective Heads of Expenditure. The moving of such CSAs was not reasonably connected with the functions of committee of the whole Council to discuss the details of a bill under Rule 56 of the RoP. I also formed the view that the admission of the sequential CSAs would give rise to a situation where LegCo would be prevented from its proper exercise and discharge of its constitutional powers and functions under BL. Therefore, I ruled all the 909 sequential CSAs to the 2014 Bill proposed by Hon LEUNG Kwok-hung to be infringing Rule 57(4)(d) of the RoP for being frivolous or meaningless<sup>3</sup>.

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<sup>1</sup> Paragraph 15 of the President’s ruling on Committee stage amendments proposed by six Members to the Appropriation Bill 2013 dated 22 April 2013.

<sup>2</sup> Ibid, paragraph 17.

<sup>3</sup> Paragraphs 13 and 14 of the President’s ruling on Committee stage amendments proposed by 14 Members to the Appropriation Bill 2014 dated 17 April 2014.

17. I noted then that Hon LEUNG Kwok-hung also proposed 26 pairs of CSAs each of which sought to reduce the appropriation to a Head of Expenditure for a specific purpose with the amounts representing the expenditure for one and six months, or one and 12 months. I allowed such CSAs to be moved on the assumption that they might be considered as providing fair and genuine choices for Members<sup>4</sup>. Given my decision to rule inadmissible all the 909 sequential CSAs, I waived the notice requirement and allowed Hon LEUNG Kwok-hung to select two CSAs out of each sequence, totaling 232 CSAs, which I subsequently admitted.

18. However, the subsequent experience during the protracted debates on the proposed amendments to the 2014 Bill, which lasted 83 hours in committee of the whole Council, convinced me that the moving of the CSAs in pair, same as the sequential CSAs, also achieved no purpose other than taking up the Council's time in completing the necessary proceedings. During this time, I observed little exchange of views among Members on those CSAs in pair. While providing broad-brush reasons for proposing reduced appropriation to a particular Head of Expenditure for a specific purpose, the proposer of such CSAs rarely articulated the reasons for proposing two amendments with the same objective and only with a difference in the amount to be reduced. The few Members who participated in the debates on the proposed amendments also did not articulate how the CSAs in pair had provided fair and genuine choices for Members. Like the sequential CSAs to the 2013 Bill, all the CSAs in pair to the 2014 Bill were voted down by an overwhelming majority of Members.

19. This year, out of the 3 904 proposed CSAs, Hon LEUNG Kwok-hung proposed a total of 3 349 CSAs. Five CSAs proposed by Hon LEUNG Kwok-hung refer to sums not included in the 2015 Bill or the Heads of Expenditure or refer to purposes not specified in the Estimates for the year ending 31 March 2016 (**Appendix II**). As the accuracy of such information is fundamental to the integrity of the proposed CSAs, these CSAs cannot be moved. Another two CSAs proposed by Hon LEUNG Kwok-hung have no material difference, and the one slightly lesser in the proposed reduced amount should not be moved.

20. Among the remaining 3 342 CSAs proposed by Hon LEUNG Kwok-hung, 3 280 fall into 1 640 pairs, each of which seeks to reduce the appropriation to a Head of Expenditure for a specific purpose with the amounts representing respectively the expenditure for six and 12 months, or three and six months (**Appendix II**). Hon LEUNG Kwok-hung has

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<sup>4</sup> Ibid, paragraph 15.

evidently taken advantage of my admission of his proposed CSAs in pair to the 2014 Bill and proposes CSAs of the same form in a voluminous number to the 2015 Bill. His avowed intent is to force the Administration to accede to his demands with a filibuster.

21. While the motive of Members proposing the CSAs is not relevant to my consideration of admissibility of the CSAs, the impact of the admission of certain CSAs on LegCo in its efficient conduct as a law making institution is definitely relevant. As President, one of the constitutional powers and functions that I should exercise and discharge under BL 72 is to preside over meetings to ensure the orderly, efficient and fair disposition of LegCo's business<sup>5</sup>. It is incumbent upon me to ensure that the admission of CSAs is in accordance with BL and the RoP. In the exercise of my powers and functions under BL and the RoP, I fully respect Members' right to participate in the legislative process, and this right, as affirmed by the Court of Appeal<sup>6</sup>, must be read with, and subject to, the power of the President to preside over meetings under BL 72(1).

22. It is incumbent upon LegCo to complete examining and voting on an appropriation bill within a reasonable time at the start of the financial year in order to discharge its power and function under BL 73(2), given that a Vote on Account resolution moved by the Administration under the Public Finance Ordinance (Cap. 2) and passed by this Council would roughly be sufficient to meet about two months' Government recurrent expenditure.

23. My assessment is that were the above-mentioned 3 280 CSAs proposed to the 2015 Bill allowed to be moved, they would take up considerable time of the Council for completing the necessary proceedings. In addition to the time required for debate on these CSAs, considerable time will be spent by the Council to vote on these CSAs.

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<sup>5</sup> Paragraph 22 of the judgment of the Court of Final Appeal on *LEUNG Kwok-hung v The President of the Legislative Council* FACV 1/2014 (on appeal from CACV 123/2012). In paragraph 52 of the judgment of the Court of Appeal on *LEUNG Kwok-hung v The President of the Legislative Council* (CACV 123 of 2012), the Court held that the "orderly, fair and proper conduct of proceedings must be within the province of the President."

<sup>6</sup> Paragraph 45 of the judgment of the Court of Appeal on *LEUNG Kwok-hung v The President of the Legislative Council* (CACV 123 of 2012). In paragraph 25 of the judgment of the Court of Final Appeal on *LEUNG Kwok-hung v The President of the Legislative Council*, the Court held that "art. 73(1) does not confer on a member of LegCo a constitutional right to participate in its legislative processes by speaking. We agree with the conclusion reached by the Court of Appeal on this point and with Hartmann J in *Leung Kwok Hung v President of Legislative Council* who said: 'The powers and functions described in art. 73 are not given to members of LegCo as individuals but to LegCo itself sitting as a legislative body.'"



24. As borne out by the Council's experience, the moving of the CSAs in pair does not connect with the function of the committee of the whole Council under Rule 56 of the RoP. These CSAs do not provide any fair and genuine choices of proposed reductions to the respective Heads of Expenditure for examination by Members in committee of the whole Council. In my opinion, the 3 280 CSAs to the 2015 Bill infringe Rule 57(4)(d) of the RoP for being frivolous or meaningless. The admission of such CSAs would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under BL. I could not allow these CSAs to be moved.

25. In making the decision, I have duly considered the constitutional powers and functions of LegCo to examine and approve budgets under BL, the time-critical nature of an appropriation bill, the right of Members to participate in the legislative process and the Council's experience in the disposal of the CSAs to the 2013 Bill and the 2014 Bill. I have struck a proper balance between respecting the right of individual Members to propose amendments and ensuring the efficient conduct of the Council as a law making institution.

26. I note the Administration's concerns about the possible impact of some CSAs, if passed, on Government operation or Government's fulfillment of certain legal or contractual obligations, or ongoing programmes or schemes previously approved by the Legislature. The 2015 Bill in its entirety is subject to approval by the Council. I do not accept that it would be "wrong in principle if not wholly unconstitutional" as suggested by the Administration for the Council to deal with CSAs that, if passed, would have the effect of hindering the Government from meeting its obligations under BL 64 to implement laws passed by the Council. Nor would I accept that it would be inappropriate for the Council to deliberate CSAs that, if passed, would subject the Government to the potential risk of breaching its statutory or contractual obligations as an Employer. The merits of CSAs are not relevant to my consideration of admissibility of CSAs.

27. Moreover, I could not agree with the Administration's understanding of Rule 57(4)(a) of the RoP. This rule requires a proposed amendment to be relevant to the subject matter of the bill and the subject matter of the clause to which it relates. It does not concern the relevancy of the purported goal of the proposer of an amendment to the subject matter of the bill.

28. I note that there is disagreement between the Legislature and the Executive Authority on the interpretation of BL 74. It is incumbent upon me as President to apply the Council's view that BL 74 does not apply to my consideration of admissibility of proposed CSAs to bills in accordance with the RoP. I have made my decision on the admissibility of the CSAs to the 2015 Bill in the exercise of my powers and functions in accordance with BL 72 and the RoP.

### **My ruling**

29. I rule that:

- (a) the 3 286 CSAs in Appendix II (not attached), proposed by Hon LEUNG Kwok-hung, are inadmissible; and
- (b) the remaining 63 CSAs proposed by Hon LEUNG Kwok-hung and the 555 CSAs proposed by the other 16 Members are admissible.



(Jasper TSANG Yok-sing)  
President  
Legislative Council

20 April 2015

財經事務及庫務局局長



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17 April 2015

Mr Kenneth Chen, SBS  
Secretary General  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
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Dear Secretary General,

### **Appropriation Bill 2015**

Thank you for your letters dated 2, 10 and 13 April 2015 inviting the Government's views on the proposed Committee Stage Amendments (CSAs) to the Appropriation Bill 2015 ("the 2015 Bill") against the provisions in Rules 57(4), 57(6) and 69 of the Legislative Council (LegCo)'s Rules of Procedure (RoP).

### **Responsibilities of the Government and Legislative Council**

2. It is the responsibility of the Government to exercise the powers and functions conferred on it under Article 62 of the Basic Law (BL 62). It is also the responsibility of the Government to assure the community that funds would be available in an orderly, predictable and timely manner to support committed public services. This duty to the community, which we are sure is also shared by LegCo, would be compromised if the passage of the Appropriation Bill is unduly held back by avowed filibustering attempts through an unreasonably large number of frivolous or vexatious CSAs.

3. In order to ensure the proper exercise and discharge of the powers and functions of LegCo provided under BL 73, in particular the orderly, fair and proper conduct of proceedings, it would be, in our view, within the constitutional power and function of the President of LegCo (to preside over meetings) under BL 72(1) and his power under the Rules of Procedure of the Legislative Council (RoP) to rule out CSAs which are in the opinion of the President frivolous or meaningless, or intended or likely to unduly delay the legislative process (i.e. to filibuster), or has the effect of preventing LegCo from properly exercising and discharging its powers and functions under the Basic Law.

4. In addition, it would be within the constitutional competence of the LegCo President to take a robust approach to rule the above CSAs inadmissible under the relevant provisions of the LegCo RoP, having regard to the principles laid down by the Court of Final Appeal in *Leung Kwok Hung v The President of the Legislative Council of the HKSAR* FACV No 1 of 2014. In particular -

*'... the courts will recognize the exclusive authority of the legislature in managing its own internal processes in the conduct of its business, in particular its legislative processes. The corollary is the proposition that the courts will not intervene to rule on the regularity or irregularity of the internal process of the legislature but will leave it to determine exclusively for itself matters of this kind ("the non-intervention principle")' (at paragraph 28) and*

*'... the court will exercise jurisdiction to determine the existence of a power, privilege or immunity of LegCo. We also arrived at the conclusion that the courts will exercise jurisdiction to determine the existence of a power, privilege or immunity of the President of LegCo. We arrived at this conclusion in the light, not only of art 73(1), but also of the provisions of art 72 of the BL and the important powers and functions which it confers on the President, particularly the power to "preside over meetings". The courts, however, will not exercise jurisdiction to determine the occasion or the manner of exercise of any such powers, privileges or immunities either by LegCo or the President.' (at paragraph 43).*

Whilst the CFA decision and above principles are laid down in the context of the President's power to set limits to and terminate a debate (paragraph 46 of the judgment), they are, in our view, similarly applicable in the interpretation and application of the relevant Rules in the RoP in respect of filibustering cases i.e. there is the avowed intention of the Member(s) concerned to filibuster for purposes irrelevant to the subject matter, as in the present case of the 2015 Bill.

5. In short, the principle of non-intervention as outlined above would lend support to the President's power and function to take a robust approach in the present case in determining the admissibility of the proposed CSAs under the relevant Rules in the RoP. This would be within the constitutional competence of the President under BL 72(1) (to preside over meetings) and BL 72(6) (to exercise other powers and functions as prescribed in the rules of procedure of the LegCo). We consider that it would be in the wider public interest for the President to do so.

### **Government's views on the 3,904 CSAs**

6. Having examined the 3,904 CSAs across 80 (of 83) Heads of Expenditure under the 2015 Bill, the Government is of the firm and clear view that the CSAs are of the same nature as described in paragraphs 3 to 5 above and therefore should **not** be admitted. Our reasons are set out below.

#### **(A) Preventing LegCo from properly exercising and discharging its function "to examine and approve budgets introduced by the government" under BL 73(2)**

7. Based on LegCo's experience in handling the 1,192 CSAs proposed to the 2014 Appropriation Bill ("2014 Bill"), voting alone on the 3,904 CSAs to the 2015 Bill, if admitted, would require **12 days** spanning across **four weeks**, assuming LegCo meets ten hours a day and three days a week on the subject. Admitting the CSAs in question would unduly prolong the legislative process and clearly undermine the performance of the powers and functions of LegCo under BL 73(2).

8. Without prejudice to the Government's position on BL 74, we note that the President had already ruled on 22 April 2013 that CSAs which would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under the Basic Law should **not** be allowed to be moved. We further note that the President ruled on 17 April 2014 not to admit 909 sequential CSAs on the following grounds –

- (a) the sequential CSAs would not serve any purpose reasonably connected with the function of the committee of the whole Council, hence infringing RoP 57(4) for being **frivolous or meaningless**. In paragraph 13 of the ruling, the President stated that "*[t]he 909 sequential CSAs do not serve any purpose reasonably connected with the function of the committee of the whole Council. In my opinion, the*

*sequential CSAs infringe Rule 57(4)(d) of the Rules of Procedure for being frivolous or meaningless when each of them is considered in the context of the other amendments also being proposed by the same Member in respect of the same head or sub-head of expenditure and the experience of last year's debates on sequential CSAs to the 2013 Bill*"; and

- (b) as demonstrated from the committee stage deliberations on the Appropriation Bill in 2013 ("2013 Bill"), these CSAs were hardly explained and achieved no purpose other than taking up the Council's time in completing the necessary proceedings. In paragraph 14 of the ruling on the 2014 Bill, the President stated that "*in the light of what transpired in the debates on sequential CSAs to the 2013 Bill ..... the admission of the 909 sequential CSAs to the 2014 Bill would have the demonstrable effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions under BL*".

9. The Government is of the view that the same situation will occur in relation to debates on the 2015 Bill, and the same principles should be applied to the 3,904 CSAs proposed to the 2015 Bill, including 3,349 from a single Member, as they would have the same effect of prolonging and delaying the LegCo proceedings on the Appropriation Bill and would prevent LegCo from properly exercising and discharging its powers and functions under BL 73. The overriding majority of the proposed CSAs are presented in different forms of sequences. They would not achieve any purpose reasonably connected with the function of the committee of the whole Council other than taking up or prolonging the Council's time in examining and approving the budget, and are in breach of RoP 57(4)(d) for being "**frivolous or meaningless**". For consistency in the application of the President's rulings, the following proposed CSAs should not be allowed -

- (a) 30 CSAs (*Annex A1*) seeking to reduce the full-year and half-year honorarium for one to 15 non-official Executive Council members; and
- (b) 3,254 CSAs, presented as 1,627 pairs, seeking to cut the full-year and half-year provisions, or the half-year and quarterly provisions, for a random mix of expenditure figures under 78 Heads of Expenditure (*Annex A2*).

10. In item (b) of paragraph 9 above, we note that the total of 1,192 admitted CSAs are seeking to reduce a random mix of expenditure provisions by different permutations across 69 Heads of Expenditure under the 2014 Bill. Of this total, some 280 are similar CSAs proposing both full-year and half-year cuts to the same expenditure provisions. Same as the President's observation made in paragraph 11 of the ruling on proposed CSAs to the 2014 Bill, we note that the debate of the committee of the whole Council on the 2014 Bill proved beyond doubt that the non-targeted CSAs presented in such patterns were frivolous and meaningless – the proposers had hardly given any clear explanation of or justification for the differences between reducing the full-year and reducing the half-year provisions in each of the CSA pairs. There was hardly any substantial exchange of views or deliberations specifically on the differences amongst these CSAs within each of the Heads of Expenditure. These proposed CSAs (both the total number and number of Heads affected have substantially increased this year) should therefore be ruled out in the same way as those sequential CSAs disallowed last year. In our view, they all have the effect of prolonging the legislative process to the extent of preventing LegCo from properly exercising and discharging its powers and functions.

**(B) Avowed intention of filibustering for purposes irrelevant to the subject matter of the Appropriation Bill 2015**

11. Hon Leung Kwok-hung has moved 3,349 CSAs, Hon Albert Chan 200 CSAs and Hon Chan Chi-chuen 191 CSAs. At a media briefing held on 14 April, the three Members admitted that the CSAs were tactics to filibuster the passage of the 2015 Bill, and were intended to exert pressure on the Government to implement universal retirement protection, review the Comprehensive Social Security System, disburse a cash grant of \$10,000 per head, legislate for maximum working hours, and withdraw the plan on the Third Runway system. Extracts of their comments as reported in various papers are in **Annex B**. The first four purported goals involve fundamental policy changes and substantial increases in government expenditure clearly straddling beyond the year 2015-16; none of these is relevant to the Appropriation Bill for 2015-16. The last purported goal on the Third Runway is also irrelevant because the Third Runway would not be financed through the appropriations for 2015-16. In any event, the contents of the CSAs bear no relationship with the

purported goals of the filibustering moves. They serve no purpose other than delaying the passage of the 2015 Bill. This is essentially a repeat of the tactic deployed in respect of the 2014 Bill which proved to have led to no consequences other than delaying proceeding in LegCo. It is noted that in his ruling on CSAs proposed to the 2014 Bill, the President stated that while the motive and the merits of CSAs were not relevant to the consideration of admissibility of CSAs, he could not ignore the new developments including the Council's experience in the disposal of the sequential CSAs when considering the admissibility of sequential CSAs (paragraph 18 of the ruling). The experience of the similar debates in the past shows that the admission of the proposed sequential CSAs would give rise to a situation where LegCo would be prevented from its proper exercise and discharge of its constitutional powers and functions. We invite the President to rule out the CSAs moved by the three Members in this context.

12. We also submit that the avowed intention and irrelevance of the purported goals of Members for moving the proposed CSAs should be taken into account by the President when considering admissibility under Rule 57(4)(a) of the RoP. In this context the CSAs moved by the three Members are irrelevant to the 2015 Bill and infringe Rule 57(4)(a) of the RoP.

**(C) Hindering the Government from discharging its obligation to “implement laws passed by the Council” under BL 64 and from fulfilling contractual obligations**

13. 2,371 CSAs seek to cut in entirety or by the half-year provision the Government's statutory contribution to the Mandatory Provident Fund, pension payments for retired civil servants and judicial officers, and the salaries and allowances for the public servants under various Heads of Expenditure. Specifically -

- (a) 2,020 CSAs seek to cut the personal emoluments (including salaries, allowances and job-related allowances) either for the relevant Bureaux or Departments and/or for specific individuals or categories of directorate or non-directorate civil service or non-civil service posts under various Heads of Expenditure (*Annex CI*);



- (b) 339 CSAs seek to cut personnel related expenses (including Mandatory Provident Fund contribution, Civil Service Provident Fund contribution and Disturbance allowance) (*Annex C2*); and
- (c) 12 CSAs seek to cut pension-related provisions, including public and judicial service pension benefits and compensation, contract gratuities, surviving spouses' and children's pensions and widows' and orphans' pensions, volunteer and defence force pensions (*Annex C3*).

14. It would be **wrong in principle if not wholly unconstitutional** for LegCo to admit and consider CSAs that would have the effect of hindering the Government from meeting its obligation under BL 64 "to implement laws passed by the Council". It would also be inappropriate for LegCo to admit and consider CSAs that would subject the Government to the potential risk of breaching its statutory and contractual obligations as an Employer.

**(D) Curtailing social security and other fundamental public services in such a way as to contradict earlier decisions of LegCo and FC**

15. 28 CSAs seek to wipe out in entirety or by the half-year provision the funding for Comprehensive Social Security Assistance Scheme, the Social Security Allowance Scheme (including the Old Age Living Allowance), the Public Transport Fare Concession Scheme for the Elderly and Eligible persons with Disabilities, subvention for rehabuses, legal aid costs and purchase of water etc. **Annex D** is relevant. If admitted and endorsed, these CSAs would effectively curtail the operation of these schemes, much to the detriment of all the needy individuals and families. These proposed CSAs would not be consistent with the earlier deliberations of LegCo and FC on these schemes. Unless LegCo or FC agreement has been reached to undo the schemes concerned, as a matter of principle, it would be **contradictory** for LegCo to consider CSAs to the Appropriation Bill that would withhold funding for the schemes that have been separately approved by LegCo/FC.

**(E) Affecting public expenditure and the operation of the Government**

16. 2,843 CSAs (**Annex E**) from a single Member seek to reduce a series of major expenditure provisions across 69 bureaux/departments (including the Education Bureau, Social Welfare Department, Immigration Department, Transport Department, Water Supplies Department, Fire Services Department and Leisure and Cultural Services Department, etc.), including full-year subvention provisions for all aided primary and secondary schools, Hospital Authority, all University Grants Committee-funded institutions and all non-governmental organisations. If admitted and endorsed, these CSAs would have the material effect of putting public services into total disarray and seriously disrupting the operation of the Government. Given that these provisions are essential to the continued operation of the relevant bureaux and departments, these CSAs relate to the “operation of the Government” and should not be introduced.

17. In line with the Government’s established position on BL 74, as set out in our letter of 23 March 1999 to LegCo, we would reiterate that CSAs to the Appropriation Bill relating to public expenditure and the operation of the Government **cannot** be introduced.

**(F) Duplicative, unintelligible or wrong**

18. We note that around 240 sets of identical CSAs are proposed by different Members and that 68 CSAs are technically inaccurate. As accuracy is fundamental to the integrity of the proposed CSAs, we submit that these should be ruled out. More details are set out in **Annex F1 and Annex F2**.

**Timely Passage of Appropriation Bill 2015**

19. The timely passage of the Appropriation Bill is critical. Scheduled payments due in early June 2015 would be affected if the Appropriation Bill could not be passed by LegCo by mid May of 2015. The interim funding secured through the Vote on Account Resolution pending the passage of the 2015 Bill would only be sufficient to sustain public services for the months of April and May 2015.

20. We should be grateful if the President could take the above views and analysis into account in considering whether to allow the proposed CSAs under the relevant provisions of the Basic Law and the RoP.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. C. Chan', with a long horizontal flourish extending to the right.

( Professor K C Chan )  
Secretary for Financial Services and the Treasury