

Note for Hon Emily Lau, Chairman of the Finance Committee

Dear Ms Lau,

Advice on some procedural arrangements for FC meetings

This note contains a summary of the advice rendered to you orally by the Legislative Council Secretariat over the last few days on the following procedural issues:

- (a) the determination of meeting time by the Chairman;
- (b) the moving of motions to express a view on an agenda item under Paragraph 37A of the FC Procedure;
- (c) the moving of a motion to adjourn the discussion of an item or adjourn the proceedings under Paragraph 39 of the FC Procedure; and
- (d) the curtailment of discussion on an item

Determination of meeting time

2. Under Rule 71(6) of the Rules of Procedure (“RoP”), FC shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members at least 5 clear days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

3. Pursuant to a decision made by FC at its meeting on 24 March 2006¹ the duration of a FC meeting has been limited to two hours. The meeting arrangement was reviewed again in late 2008 and members were consulted in the course of the review. FC subsequently decided on 16 January 2009² that the duration of FC meetings should be maintained at two hours, but the Chairman may extend a FC meeting for up to 15 minutes where necessary. In the case of the subcommittees of FC, the subcommittee may further extend a meeting for a specified period of time, subject to availability of venue and the extended time not clashing with meetings of the Council, and there being no dissenting voice when deciding on the further

¹ The decision was made after considering the paper FCR(2007-08)33 on Review of the Procedures of the Finance Committee and its subcommittees.

² The decision was made after considering the paper FCR(2008-09)59. The arrangements as decided by the FC were set out in LC Paper No. FC56/08-09 which was issued to members on 19 January 2009.

extension. This arrangement however does not apply to FC. The above decisions were made in order to ensure that decisions of FC on a substantive item, such as a financial proposal or a proposal to change FC procedures, would be taken during a period of time which is known to members well beforehand.

4. It has been the practice of the chairman of the Finance Committee to follow the above decisions strictly when making a determination of the time and place of a Finance Committee meeting pursuant to Rule 71(6) of RoP, and where she considers that it is necessary to extend the meeting time of a meeting. However, where there is a need to consider logistical issues such as sounding out to members on the fixing of a date for the next meeting at a time when the chairman's 15-minutes extension is about to expire, it is the Secretariat's advice that the chairman should only consider extending the meeting further if she finds that the members present are representative enough of members of the committee, and that if there is no dissenting voice to such an extension.

5. As regards special meetings convened to consider urgent items or items, they are subject to the same requirement of a five-clear-day notice under Rule 71(6) of RoP. However, the Chairman may direct that shorter notice is to be given pursuant to the same rule. These procedural requirements are reflected in Paragraphs 10 and 11 of the FC Procedure.

6. Paragraph 11 of the FC Procedure also makes it clear that "[a]ny items on the agenda scheduled for discussion but not dealt with at the meeting will be carried over to the next meeting or, if the chairman so decides, to a special meeting". The notice requirement for holding such special meeting is the same as that for other meetings, i.e. at least five clear days or shorter notice if directed by the Chairman. It is for the Chairman to judge how short the notice she would give on a case-by-case basis. Nevertheless, it has been the practice of the Chairman to give regard to the urgency of the matter as explained by the Administration, and how well members had been briefed and, hence, how ready members would be to discuss the subject matter before attending the meeting. An example was the Chairman's decision to hold an urgent meeting on 14 November 2008 to consider further support measures to assist the small and medium enterprises following the financial tsunami, with one clear day's notice.

7. In the event that it is considered that a special meeting should be held urgently with notice as short as, say, less than half an hour, for dealing with items outstanding from a previous meeting, the Chairman should, before she directs that such a short notice be given, have regard to all the factors that are relevant for determining the urgency of the matter, and consistent with making a decision to extend a meeting beyond the 15-minute extension as advised above, ascertain if there is any objection from all members of the committee. Such an approach was adopted by the FC Chairman on 18 July 2008 for a special meeting to be held immediately following a scheduled meeting to consider the unfinished agenda items on the agenda of the scheduled meeting, including the financial proposal for setting a trust fund in support of reconstruction in the Sichuan earthquake stricken areas. The special meeting was held with less than one hour's notice as directed by the Chairman with the agreement of all members present at the preceding meeting.

Moving of motions under Paragraph 37A of Finance Committee Procedure

8. Members may move a motion without notice to express a view on an agenda item, such as a financial proposal, under Paragraph 37A of the FC Procedure during the deliberation of the agenda item. However, the motion will only be proceeded with if it is considered by the Chairman as directly related to the agenda item and agreed by a majority of members that it should be proceeded forthwith.

9. For moving a motion under Paragraph 37A, the member should present the proposed motion in written form when he is called upon by the Chairman to speak on the agenda item. If the motion is found related to the agenda item by the Chairman, the member may be invited to explain the reason for moving the motion within the time given to any member at that time for asking questions. The Chairman may direct that the motion be dealt with at a later stage if she needs time to consider if the motion may be considered under Paragraph 37A and for the proposed motion to be photocopied and distributed to members. Amendments to the motion should also be presented in written form. Members may speak on the motion and amendment to the motion, if any, in a joint debate.

10. The inclusion of Paragraph 37A in the FC Procedure was decided by the FC at its meeting on 2 November 2007³. Motions moved under Paragraph 37A are not intended to have any substantive effect on the financial proposal in an agenda item. If the Chairman considers that the motion is related to the agenda item, she will ask members to indicate whether it should be proceeded with at the meeting. Following an indication of support by a majority of members present for the motion to be dealt with immediately, the Chairman will allow the motion to be moved. Thereupon the motion will be proposed, debated and put to a vote at the meeting. In other words, unless the majority of members present agree to deal with the motion immediately at the meeting, the motion will not be moved or debated.

Moving of a motion to adjourn discussion of an item or adjourn proceedings

11. Under Paragraph 39 of the FC Procedure, a member, when speaking on a proposal in the Committee, may move without notice that discussion of an item or further proceedings be adjourned. The Chairman shall then propose the question on the motion to adjourn. A member, when speaking on the question, may not speak for more than once and shall not make a speech for longer than any time period as decided by the Committee, or where no such decision has been made, for more than three minutes. When no more member indicates his/her intention to speak on the motion, the Chairman shall put the motion to the Committee for a decision. When a motion to adjourn the discussion of an item is passed, the Committee will not take a vote on that item and will proceed to the next item on the agenda. If a motion to adjourn the proceedings of the Committee is passed, the Chairman will declare the meeting closed without putting further questions.

The Chairman's role in curtailing discussion of an item and in ensuring effective use of committee time

12. It is the responsibility of the FC Chairman to chair meetings of FC in accordance with the RoP and FC Procedure. Although not explicitly provided, in line with the principles set out in the Handbooks for chairmen of committees, this responsibility should include ensuring that the business on the agenda is transacted in a proper and efficient manner, and that members have adequate opportunities to take

³ Paper FCR(2007-08)33

part in the deliberations of the committee (e.g. paragraphs 1.9(b) and 1.16 of the Handbook for Chairmen of Panels and paragraphs 1.8(b) and 1.14 of the Handbook for Chairmen of Bills Committees). Unlike the practice and procedure in some overseas legislatures such as the United Kingdom, there is no provision in the RoP which allows discussion or debate on a motion to be curtailed through the moving of a motion “That the question be now proposed”. Even in the case of UK, the Chair may decide not to put the question if it appears to him that the motion is an abuse of the rules of the House or an infringement of the rights of the minority. Passage of such a closure motion requires support of no fewer than 100 Members of Parliament on a division being taken.

13. In the case of the Hong Kong Legislature, it is not uncommon that the Chairman of FC would advise members that the time allowed for each question in the third or fourth rounds is to be reduced and to indicate that he/she would want the discussion to come to a close after this last round of questions to be raised on an agenda item if it is considered by the Chairman that there has been adequate discussion on the item after taking into account the amount of time that has been spent on the item. The Chairman may also direct that certain information which is not available at the meeting be provided after the meeting, or the matter be referred to the relevant Panel(s) for follow up.

14. As regards the specific question of whether the Chairman has the power to “draw a line” in that no member will be allowed to speak or ask questions after members who have indicated the intention to speak or ask questions have done so, the answer is that there is no provision in the RoP nor the FC Procedure which gives the Chairman such power. However, as a matter of practice, the expression “draw a line” is a jargon used to describe the Chairman’s indication that he/she would want the discussion to come to a close after having considered that there has been adequate discussion on the item after taking into account the amount of time that has been spent on the item.

Relevant rules

15. The relevant provisions in the Rules of Procedure, FC Procedure and Handbooks for chairmen of committees are reproduced in the **Appendix** for your easy reference.



(Ms Pauline Ng)
Secretary General
14 January 2010

Extract from the Rules of Procedure, Finance Committee Procedure and Handbooks for Chairmen of Panels and Chairmen of Bills Committees of the Legislative Council

Rules of Procedure

71. Finance Committee

(6) The committee shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members at least 5 clear days before the day of the meeting but shorter notice may be given in any case where the chairman so directs

Finance Committee Procedure

Meetings

10. The Committee meets at the time (including any time during the period when the Council is in recess between the end of one session and the beginning of the next session) and the place determined by the Chairman [Rule 71(6)]. At the beginning of each session, the Clerk shall seek the Chairman's agreement to a provisional schedule of dates of Committee meetings for the session and inform members and the Administration accordingly. The Chairman may decide to convene special meetings to consider urgent items.

11. The Clerk shall give members written notice of every meeting at least five clear days before the day of the meeting but shorter notice may be given in any case where the Chairman so directs [Rule 71(6)]. Meetings shall be held in public unless the Chairman otherwise orders in accordance with any decision of the Committee [Rule 71(7)]. Any items on the agenda scheduled for discussion but not dealt with at the meeting will be carried over to the next meeting or, if the Chairman decides, to a special meeting.

Motions

37A. During the deliberation of an agenda item, prior to the question on it being put to vote, a member may move a motion without notice to express a view on the agenda item if the motion is considered by the Chairman as directly related to the agenda item and agreed by a majority of members that it should be

proceeded forthwith. Any proposed motion or amendment to the motion should be presented in written form. Members may speak on the motion and amendment to the motion, if any, in a joint debate.

Rules of Speaking

39. A member when speaking on a proposal in the Committee may move without notice that discussion on an item or further proceedings of the Committee be now adjourned. Thereupon the Chairman shall propose the question on the motion to adjourn [Rule 40]. A member, when speaking on the question, may not speak more than once [Rule 38] and shall not make a speech for longer than any time period as decided by the Committee, or where no such decision has been made, for more than three minutes. When no or no more member indicates his intention to speak on the question, the Chairman shall forthwith put the question on the motion to the Committee for its decision. No member may speak on the question after it has been put [Rule 33].

Handbook for Chairmen of Panels

Chairman

Responsibilities

1.9 The responsibilities of the Chairman of a Panel are not explicitly stipulated in the Rules of Procedure or House Rules. However, it is generally accepted by Members that the Chairman has the following responsibilities -

- (a) steering the work of the Panel in consultation with its members;
- (b) chairing meetings and ensuring that the business on the agenda is transacted in a proper and efficient manner;
- (c) maintaining order at meetings;
- (d) presenting papers of the Panel to the House Committee;
- (e) tabling and speaking on reports of the Panel in Council; and
- (f) moving motions for debate in Council on behalf of the Panel.

Guiding principles

1.16 The Chairman should conduct himself/herself with impartiality in discharging his/her responsibilities. He/she should ensure that members have adequate opportunities to take part in the deliberations of the Panel. Where there are differences of opinion, the Chairman should give each side an equal chance to express its views.

Handbook for Chairmen of Bills Committees

Chairman

Responsibilities

1.8 The responsibilities of the Chairman of a Bills Committee are not explicitly stipulated in the Rules of Procedure or House Rules. However, it is generally accepted by Members that the Chairman has the following responsibilities -

- (a) steering the work of the Bills Committee in consultation with its members;
- (b) chairing meetings and ensuring that the business on the agenda is transacted in a proper and efficient manner;
- (c) maintaining order at meetings;
- (d) presenting the report of the Bills Committee to the House Committee;
- (e) tabling and speaking on the report of the Bills Committee in Council; and
- (f) moving Committee Stage amendments agreed to by the Bills Committee on its behalf.

Guiding principles

1.14 The Chairman should conduct himself/herself with impartiality in discharging his/her responsibilities. He/she should ensure that members have adequate opportunities to take part in the deliberations of the Bills Committee. Where there are differences of opinion, the Chairman should give each side an equal chance to express its views.