

立法會
Legislative Council

LC Paper No. CB(4)7/13-14
(These minutes have been
cleared by the Chairman)

Ref: CB4/HS/2/12

**Subcommittee to Prepare for the Operation of the Select Committee
on the Petition Presented at the Council Meeting of 8 May 2013**

**Minutes of the meeting held on
Tuesday, 4 June 2013, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Hon Cyd HO Sau-lan (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Hak-kan, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Kenneth LEUNG
Hon Dennis KWOK
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Tony TSE Wai-chuen

Member absent : Hon WONG Yuk-man

Clerk in attendance: Ms Anita SIT
Chief Council Secretary (4)1

Staff in attendance : Mrs Percy MA
Assistant Secretary General 4

Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Angela CHU
Council Secretary (4)1

Ms Carmen HO
Senior Legislative Assistant (4)2

Ms LAM Yuen-Kwan
Legislative Assistant (4)1

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I. Election of Chairman and Deputy Chairman

Mr James TO, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2 Mr WONG Kwok-kin nominated Mr IP Kwok-him and the nomination was seconded by Mr Tony TSE. Mr IP Kwok-him accepted the nomination. There being no other nominations, Mr James TO declared that Mr IP Kwok-him was elected Chairman of the Subcommittee. Mr IP then took over the chair.

3 The Chairman invited nominations for the deputy chairmanship. Mr Kenneth LEUNG nominated Ms Cyd HO and the nomination was seconded by Mr Dennis KWOK. Ms Cyd HO accepted the nomination. There being no other nominations, the Chairman declared that Ms Cyd HO was elected Deputy Chairman of the Subcommittee.

II. Application for late membership

4 The Chairman referred to the letter dated 3 June 2013 from Mr CHAN Hak-kan regarding his application for late membership of the Subcommittee, which was tabled at the meeting. The Chairman invited the Subcommittee to decide on whether Mr CHAN Hak-kan's application for late membership should be accepted. Mr James TO said that during the relevant discussion at the House Committee meeting on 24 May 2013, there was

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general agreement among Members that the membership size of the Select Committee should be 13, and that members of the Subcommittee should also be members of the Select Committee. He therefore considered that the membership size of the Subcommittee should be 13. As there were already 13 members in the Subcommittee, he objected to Mr CHAN Hak-kan's application for late membership.

5 The Chairman put the matter to vote. Five members voted for and one member voted against Mr CHAN Hak-kan's application for late membership. Two members abstained from voting. The Chairman declared that Mr CHAN Hak-kan's application for late membership of the Subcommittee was accepted.

(Post meeting note: The letter dated 3 June 2013 from Mr CHAN Hak-kan was issued to members vide LC Paper No. CB(4)744/12-13 on 5 June 2013.)

III. Terms of reference of the Select Committee

(LC Paper No. CB(4)730/12-13(01) -- Paper on proposed terms of reference of the Select Committee prepared by the Legislative Council Secretariat)

6 The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

7 The Chairman invited members' views on the proposed terms of reference ("TOR") of the Select Committee as set out in paragraph 5 of the paper. The Chairman and Mr Dennis KWOK tabled their respective proposed TOR for the Subcommittee's consideration.

8 Noting that the Select Committee was formed pursuant to the referral by the Council of the petition jointly presented by Hon Cyd HO and Hon Dennis KWOK at the Council meeting of 8 May 2013 ("the Petition"), members agreed that the scope of work of the Select Committee should be defined by the substance of the Petition and covered only those matters proposed to be examined in the Petition. Members also generally agreed that as the nature of work of the Select Committee was fact-finding, it was appropriate to adopt expressions that carried neutral connotation for the TOR of the Select Committee as far as possible. After discussion, members

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agreed to recommend the following TOR (Chinese version only) for the Select Committee -

"調查前任廉政專員湯顯明先生在任期間所進行的公務外訪、酬酢、餽贈及收受禮物事宜是否符合其公職身分及廉政公署所提倡廉潔奉公的價值，以及廉政公署如何就上述事宜向立法會財務委員會提交資料。"

9 Members also agreed to recommend the following name (Chinese version only) for the Select Committee -

"調查湯顯明先生任職廉政專員期間的外訪、酬酢、餽贈及收受禮物事宜專責委員會"

(Post meeting note: The respective proposals of the Chairman and Mr Dennis KWOK on the TOR were issued to members vide LC Paper No. CB(4)744/12-13 on 5 June 2013. The recommended English version of the name and that of the TOR of the Select Committee were agreed by the Subcommittee by way of circulation of papers vide LC Papers No. CB(4)749/12-13 dated 5 June 2013 and LC Paper No. CB(4)758/12-13 dated 6 June 2013.)

IV. Size of the Select Committee and procedure for the nomination of Members for appointment to the Select Committee

(LC Paper No. CB(4)730/12-13(02) -- Paper on membership size of the Select Committee and nomination procedure prepared by the Legislative Council Secretariat)

10 The Chairman proposed and members agreed that the membership size of the Select Committee should be 13.

11 Regarding the procedure for the nomination of Members for appointment to the Select Committee, members agreed that the nomination procedure should follow the procedure adopted by the House Committee on 19 October 2012 for the nomination of Members for appointment to the Public Accounts Committee, Committee on Members' Interests and Committee on Rules of Procedure at the beginning of the Fifth Legislative Council, except that if the number of nominees for which a Member had

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voted exceeded the number required for appointment, all the votes (instead of the votes in excess of the required number) which the Member had cast would be discarded.

12 Members agreed that the Chairman would report the Subcommittee's recommendations to the House Committee on 7 June 2013, and invite the House Committee to endorse the Subcommittee's recommendations on the membership size of the Select Committee and the procedure for nomination of Members for appointment to the Select Committee, and to take note of the Subcommittee's recommendations on the name and TOR of the Select Committee.

(Post meeting note: At its meeting on 7 June 2013, the House Committee endorsed the Subcommittee's recommendations on the membership size of the Select Committee and the procedure for nomination of Members for appointment to the Select Committee, and took note of the Subcommittee's recommendations on the name and TOR of the Select Committee.)

V. Any other business

13 There being no other business, the meeting ended at 10:48 am.

**Proceedings of the first meeting of the
Subcommittee to Prepare for the Operation of the Select Committee
on the Petition Presented at the Council Meeting of 8 May 2013
on Tuesday, 4 June 2013, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
I. <u>Election of Chairman and Deputy Chairman</u>			
000000 - 000259	Mr James TO Mr WONG Kwok-kin Mr CHAN Hak-kan Mr IP Kwok-him Mr Tony TSE	Election of Chairman	
000300 - 000402	Chairman Mr Kenneth LEUNG Mr Dennis KWOK Ms Cyd HO	Election of Deputy Chairman	
II. <u>Application for late membership</u>			
000403 - 001252	Chairman Mr James TO Mr CHAN Hak-kan Clerk Deputy Chairman	Discussion and voting on the application of Mr CHAN Hak-kan for late membership	
III. <u>Terms of reference ("TOR") of the Select Committee</u>			
001253 - 014624	Chairman Mr Dennis KWOK Mr James TO Mr Kenneth LEUNG Deputy Chairman Dr Priscilla LEUNG Mr Paul TSE Mr Dennis KWOK Mr CHAN Hak-kan Ir Dr LO Wai-kwok Mr CHUNG Kwok-pun Mr LEUNG Kwok-hung Mr Tony TSE Chairman Mr WONG Kwok-kin ALA1 Clerk ASG4	(a) Presentation by Mr Dennis KWOK and the Chairman on their respective proposals on the TOR of the Select Committee (b) Mr James TO's view that the expression "and related matters" should be added to the TOR. (c) Mr Kenneth LEUNG's view that the expression "to inquire" instead of "to examine" should be used and that the expression "and related matters" should be added to the TOR. (d) Deputy Chairman's view that the TOR should reflect the substance of the Petition, and that the expression "and related matters" should be added to the TOR.	

Time Marker	Speaker	Subject(s)	Action Required
	Chairman	<p>(e) Dr Priscilla LEUNG's view that the work of the Select Committee should be fact-finding, and thus expressions of neutral connotation should be adopted for the TOR.</p> <p>(f) Mr Paul TSE's view that -</p> <ul style="list-style-type: none">(i) the TOR of the Select Committee should be well defined, and thus the expression "and related matters" was not appropriate;(ii) the TOR should not include a review on ICAC's regulatory systems and procedures for handling official duty visit, entertainment and bestowing and receipt of gifts, as the Government had set up a review committee to conduct a review in this regard; and(iii) expressions used in the TOR should carry a neutral connotation to reflect that the inquiry of the Select Committee would be fair and seen to be fair. <p>(g) Mr Dennis KWOK's view that the TOR should include matters proposed to be examined in the Petition, and the expression "and related matters" should be added to the TOR.</p> <p>(h) Mr CHAN Hak-kan's view and Ir Dr LO Wai-kwok's view that the TOR proposed by the Chairman was appropriate, as it covered the major issues proposed to be examined in the Petition.</p> <p>(i) Mr CHUNG Kwok-pun's view that only the major issues mentioned in the Petition should be covered in the TOR.</p> <p>(j) Mr LEUNG Kwok-hung's view that the Select Committee was not authorized by the Council to exercise the powers under section 9(1) of Cap. 382, and therefore the</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>TOR of the Select Committee should not be too narrow in scope. Otherwise, its inquiry power would be further diminished. He supported the addition of "and related matters" to the TOR, and considered it unnecessary to adopt expressions of neutral connotation in the TOR.</p> <p>(k) Mr Tony TSE's view that addition of the expression "and related matters" to the TOR was superfluous, as it was for the Select Committee to decide what matters were related to the scope of its inquiry.</p> <p>(l) The Chairman's view that –</p> <p>(i) the TOR should clearly define the scope of the Select Committee's inquiry;</p> <p>(ii) the TOR should be worded neutrally as far as possible;</p> <p>(iii) it was not appropriate to add the expression "and related matters" to the TOR as the TOR should be confined to the matters proposed to be examined in the Petition.</p> <p>(m) Mr WONG Kwok-kin's query as to whether the TOR should be defined by the Petition, which had only been presented by two Members at a Council meeting but had not been debated on.</p> <p>(n) ALA1's advice that the scope of work of the Select Committee should be confined to the Petition, which had been referred to the Select Committee by the Council. The Chairman of the Select Committee would need to ensure that the inquiry was conducted within its TOR.</p> <p>(o) ASG4's advice that the Petition had been referred to a select committee by the Council in accordance with Rule 20(6) of the Rules of Procedure. The Petition should therefore be the scope of work of</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>the Select Committee.</p> <p>(p) In response to the Chairman's enquiry, ASG4 advised that the endorsement of House Committee of the TOR proposed by the Subcommittee was not necessary.</p> <p>Members agreed to suspend the meeting for about 10 minutes for discussion among themselves on the TOR.</p>	
014625 - 015624	Suspension of meeting		
IV. <u>Size of the Select Committee and procedure for the nomination of Members for appointment to the Select Committee</u>			
015625 - 021237	Chairman Mr WONG Kwok-kin Deputy Chairman Dr Priscilla LEUNG ASG4 Clerk Mr Paul TSE Ir Dr LO Wai-kwok Mr LEUNG Kwok-hung	<p>Advice of the Chairman that during the period of suspension, members had agreed on the wording of the TOR of the Select Committee. He suggested and members agreed that the meeting would proceed to agenda item IV first, and discussion of agenda item III on the TOR would resume after copies of the agreed wording of the TOR were available for distribution to members.</p> <p>Discussion and decision on the membership size of the Select Committee</p> <p>Discussion and decision on the procedure for nomination of Members for appointment to the Select Committee</p>	
III. <u>Terms of reference of the Select Committee</u>			
021238 - 021817	Chairman Mr Dennis KWOK ALA1 Ir Dr LO Wai-kwok Mr Paul TSE Mr LEUNG Kwok-hung Chairman	<p>Further discussion and decision of the Subcommittee on the TOR of the Select Committee</p> <p>Agreement of the Subcommittee that it would report to the House Committee on 7 June 2013</p>	
V. <u>Any other business</u>			
021818 - 021912	Chairman Dr Priscilla LEUNG ASG4	<p>Advice of the Chairman that the Select Committee would consider its practice and procedure after Members had been appointed to</p>	

Time Marker	Speaker	Subject(s)	Action Required
	Chairman	the Select Committee	

Council Business Division 4
Legislative Council Secretariat
9 October 2013