

立法會
Legislative Council

LC Paper No. CB(1)187/14-15
(These minutes have been
cleared with the Chairman)

Ref: CB1/HS/1/13

**Subcommittee to Prepare for the Operation of the Select Committee
on the Petition Presented at the Council Meeting of 25 June 2014**

**Minutes of the second meeting held on
Tuesday, 21 October 2014, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Martin LIAO Cheung-kong, SBS, JP (Chairman)
Hon Tony TSE Wai-chuen, BBS (Deputy Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon Charles Peter MOK, JP
Hon TANG Ka-piu, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Members absent : Hon LEE Cheuk-yan
Hon CHAN Han-pan, JP

Clerk in attendance: Ms Sophie LAU
Chief Council Secretary (1)2

Staff in attendance : Mr Stephen LAM
Senior Assistant Legal Adviser 2

Miss Winnie LO
Assistant Legal Adviser 7

Ms Macy NG
Senior Council Secretary (1)2

Ms Emily LIU
Legislative Assistant (1)2

Miss Ariel SHUM
Clerical Assistant (1)2

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I. Terms of reference of the Select Committee

LC Paper No. CB(1)55/14-15(01) -- Paper on proposed terms of reference of the Select Committee prepared by the Legislative Council Secretariat

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

2. The Chairman invited members' views on the proposed terms of reference ("TOR") of the Select Committee as set out in paragraph 6 of the paper (LC Paper No. CB(1)55/14-15(01)).

3. Noting that the Select Committee was formed pursuant to the referral by the Council of the Petition jointly presented by Hon WU Chi-wai and Hon Charles Peter MOK at the Council meeting of 25 June 2014 ("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.

4. After discussion, members agreed to recommend the following TOR in Chinese for the Select Committee –

"該專責委員會的職權範圍(該職權範圍反映由胡志偉議員與莫乃光議員在 2014 年 6 月 25 日立法會會議上一同提交並根據《議事規則》第 20(6)條交付該專責委員會處理的呈請書的要旨)如下 ——

調查政府及香港鐵路有限公司("該公司")於 2014 年 4 月宣布的廣深港高速鐵路香港段建造工程延誤一事("該工程延

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誤")的背景和原委及相關事宜，包括政府及該公司在該工程延誤上的表現及責任，和有否蓄意隱瞞該工程延誤；以及就政府日後可如何改善對新鐵路項目建造工程的監管及如何加強該公司在推展鐵路項目方面的管治及有關事宜作出建議。"

(Post-meeting note: Members agreed to the recommended English version of the TOR and the proposed change of "有關事宜" in the last sentence of the TOR to "相關事宜" in the Chinese version to achieve consistency in wording within the TOR by way of circulation of paper vide LC Paper No. CB(1)92/14-15 dated 24 October 2014.)

5. Members also agreed to recommend the following name for the Select Committee as set out in paragraph 7 of LC Paper No. CB(1)55/14-15(01) –

"調查廣深港高速鐵路香港段建造工程延誤的背景及原委專責委員會"

(English version)

"Select Committee to Inquire into the Background of and Reasons for the Delay of the Construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link"

II. Membership size of the Select Committee and procedure for the nomination of Members for appointment to the Select Committee

LC Paper No. CB(1)55/14-15(02) -- Paper on membership size of the Select Committee and nomination procedure prepared by the Legislative Council Secretariat

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

7. 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 Select Committee to Inquire into Matters Relating to Mr Timothy TONG's Duty Visits, Entertainment, and Bestowing and Receipt of Gifts during his Tenure as Commissioner of the Independent Commission Against Corruption.

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III. Any other business

8. Members agreed that the Chairman would report the Subcommittee's recommendations to the House Committee on 7 November 2014, 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.

9. There being no other business, the meeting ended at 11:44 am.

Council Business Division 1
Legislative Council Secretariat
12 November 2014

**Proceedings of the second meeting of the
Subcommittee to Prepare for the Operation of the Select Committee
on the Petition Presented at the Council Meeting of 25 June 2014
on Tuesday, 21 October 2014, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
<i>Agenda Item I – Terms of reference ("TOR") of the Select Committee</i>			
000128 – 003015	Chairman Mr Gary FAN Clerk Mr CHAN Kam-lam Deputy Chairman Ir Dr LO Wai-kwok Mr Charles Peter MOK Mr WU Chi-wai	<p>(a) Mr Gary FAN's view that the TOR should adopt the same wording used in the Petition presented by Mr WU Chi-wai and Mr Charles Peter MOK at the Council meeting of 25 June 2014 ("Petition") and his agreement to the Clerk's explanation that the proposed TOR should reflect the substance of the Petition concisely and be worded neutrally;</p> <p>(b) Mr Gary FAN and Mr Charles Peter MOK's concern that the scope of examination would be narrowed down if a date, i.e, 15 April 2014, was included in the TOR as the Government or the MTR Corporation Limited ("the Corporation") did release other information on the incident after that date;</p> <p>(c) Mr Gary FAN's suggestion to add "及隨後披露" after "宣布" in the TOR;</p> <p>(d) The Chairman, the Deputy Chairman, Mr CHAN Kam-lam and Ir Dr LO Wai-kwok's view that the date referred to in the proposed TOR was merely about the announcement of the delay, and the investigation should only limit to the delay announced in April 2014, but not further delays, if any, announced by the Government and the Corporation thereafter;</p> <p>(e) Mr WU Chi-wai's suggestion to replace "Government" with "Transport and</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Housing Bureau, Highways Department and other government departments" to tally with the wording in the petition and the Chairman's view that the word "Government" had indeed included all government departments; and</p> <p>(f) The Subcommittee's agreement to</p> <p>(i) remove the date, i.e, "15", before "April 2014" from the proposed TOR; and</p> <p>(ii) add "一事" to the TOR after "宣布的廣深港高速鐵路香港段建造工程延誤" to confine the investigation to the specific incident.</p>	
003016 – 005329	Chairman Mr Michael TIEN Mr WU Chi-wai Senior Assistant Legal Adviser 2 ("SALA2") Mr Gary FAN Ir Dr LO Wai-kwok Deputy Chairman	<p>(a) Mr Michael TIEN's concern about the party who should foot the bill for the likely cost overrun arising from the project delay as it was the first time the Government adopted the concession approach to implementing the project; and his suggestion of adding "作為委託人" to the TOR after "...,包括政府及該公司" and before "在該工程延誤上...";</p> <p>(b) Mr WU Chi-wai's suggestion to add "有關事宜" to the TOR after "...及如何加強該公司在推展鐵路項目方面的管治";</p> <p>(c) SALA2's advice that –</p> <p>(i) the Select Committee was concerned to find out whether or not the matters set out in the petition were supported by facts instead of adjudicating on the civil liabilities of the concerned parties, which should be done by the court;</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(ii) paragraph 3.1 (N) of the First Report by the Independent Board Committee on the Express Rail Link Project issued by the Corporation in July 2014 had specified the circumstances in which the Government had the right to claim against the Corporation under the Entrustment Agreement made between the Government and the Corporation;</p> <p>(d) Mr Gary FAN's suggestion to add "並保障公帑運用" after "...管治作出建議" in the TOR;</p> <p>(e) The Chairman's reminder that the scope of work of the Select Committee should be defined by the substance of the Petition and should cover only those matters proposed to be examined in the Petition; and</p> <p>(f) The Chairman, Ir Dr LO Wai-kwok and the Deputy Chairman's view that the concern about the responsibility for the cost overrun of the project could be broadly addressed in the last sentence of the proposed TOR:</p> <p>"...; and to make recommendations on how the Government can enhance the supervision of the construction of new railway projects and strengthen the governance of the Corporation in delivering railway projects in the future".</p>	
005330 – 005446	Chairman	<p>The Subcommittee's agreement to the following changes to the proposed TOR –</p> <p>(a) Removal of the date, i.e., "15", before "April 2014";</p> <p>(b) Addition of "一事" to the TOR after "宣布的廣深港高速鐵路香港段建造工程延誤" and before "(該工程延</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>誤")..."; and</p> <p>(c) Addition of "及有關事宜" to the TOR after "...及如何加強該公司在推展鐵路項目方面的管治" and before "作出建議。".</p>	
005447 – 005509	Chairman	The Subcommittee's agreement to the proposed name for the Select Committee as set out in paragraph 7 of LC Paper No. CB(1)55/14-15(01).	
<i>Agenda Item II – Membership size of the Select Committee and procedure for the nomination of Members for appointment to the Select Committee</i>			
005510 – 005807	Chairman Deputy Chairman Mr Gary FAN	<p>(a) The Deputy Chairman's suggestion and the Subcommittee's agreement that the membership size should be set at 13; and</p> <p>(b) Mr Gary FAN's enquiry about the circumstance in which the number of nominations exceeded that required for appointment and the Chairman's reply that a poll should then be taken at the House Committee meeting at which the election was conducted.</p>	
005808– 005929	Chairman	The Subcommittee's agreement to adopt the proposed procedure for nomination and election of Members for appointment to the Select Committee as set out in paragraph 7 of LC Paper No. CB(1)55/14-15(02).	
<i>Agenda Item III – Any other business</i>			
005930– 010012	Chairman	The Subcommittee's agreement that the Chairman would make a report on the Subcommittee's recommendations to the House Committee on 7 November 2014.	