

**立法會**  
**Legislative Council**

LC Paper No. ESC31/14-15  
(These minutes have been  
cleared with the Chairman)

Ref : CB1/F/3/2

**Establishment Subcommittee of the Finance Committee**

**Minutes of the special meeting  
held in Conference Room 1 of Legislative Council Complex  
on Wednesday, 3 December 2014, at 8:30 am**

**Members present:**

Hon Kenneth LEUNG (Chairman)  
Hon SIN Chung-kai, SBS, JP (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Frederick FUNG Kin-kee, SBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Hon WONG Ting-kwong, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Cyd HO Sau-lan, JP  
Hon Starry LEE Wai-king, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon Steven HO Chun-yin  
Hon WU Chi-wai, MH  
Hon YIU Si-wing  
Hon Gary FAN Kwok-wai  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK  
Hon CHAN Chi-chuen  
Dr Hon Kenneth CHAN Ka-lok  
Dr Hon KWOK Ka-ki  
Hon Christopher CHEUNG Wah-fung, SBS, JP



attend the special meeting to explain the grounds of their applications and/or provide written supplementary information, if any. As at 27 November 2014, 16 Applicant Members indicated in their reply slips that they would not attend any special meeting held for the purpose of considering their Applications, and the remaining two Applicant Members indicated that they could not attend today's special meeting. 17 Applicant Members indicated that they would not provide written supplementary information. In addition, Mr Andrew LEUNG and Mr Tony TSE had written (LC Paper Nos. ESC15/14-15(01) and (02)) that they had clearly stated the grounds of their applications in their previous letters submitted to the Subcommittee and they did not have any supplementary information. Mr Paul TSE had written (LC Paper No. ESC15/14-15(03)) that he could not attend today's special meeting because he was away from Hong Kong, and the reasons of his application were similar to those for the Public Works Subcommittee ("PWSC") of which he had explained at the PWSC meeting on 11 November 2014. Moreover, Mr CHAN Kin-por indicated in his reply slip (LC Paper No. ESC15/14-15(04)) that he had attended the Subcommittee meeting on 12 November 2014 and did not have supplementary information on his Application. He also urged the Subcommittee to decide on all Applications immediately.

2. The Chairman reminded members that, according to paragraph 3B of the Establishment Subcommittee Procedure ("ESC Procedure"), a request for late membership on grounds other than indisposition or absence from Hong Kong should be put to the Subcommittee, and the Subcommittee should accept such applications only when sufficient grounds had been provided.

3. Mr Gary FAN referred to the advice given by Assistant Secretary General 1 ("ASG1") at the PWSC meeting on 2 December 2014 that paragraph 33 of the PWSC Procedure on a motion to adjourn the further proceedings of the Subcommittee should not apply to the agenda item "Applications for late membership" because the item was not related to a funding proposal from the Administration. Mr FAN sought clarification whether the same advice would apply to the current agenda item of the Subcommittee as he noted that paragraph 32 of the ESC Procedure was the same as paragraph 33 of the PWSC Procedure. ASG1 advised that the role and terms of reference of the Subcommittee, as set out in paragraphs 1 and 2 of the ESC Procedure, was to examine the Administration's establishment proposals. Paragraph 32 of the ESC Procedure should not apply to the Subcommittee's handling of "Applications for late membership" as this matter was an internal business of the Subcommittee and did not relate to a proposal from the Administration. Nonetheless, it was a matter for the Chairman to decide as how the relevant rules of the ESC Procedure should be applied to the proceedings of the Subcommittee.

4. The Chairman concurred that paragraph 32 of the ESC Procedure should not apply to the current proceedings of the Subcommittee. He was of the view that members could object to holding the current meeting when the Subcommittee discussed whether a special meeting should be held for the purpose of considering "late membership" instead of moving a motion under paragraph 32 of the ESC Procedure at this juncture to adjourn the proceedings of the meeting.

#### Approach for handling the 18 Applications

5. The Chairman sought members' views on whether the 18 Applications should be handled jointly or individually.

6. Mr WU Chi-wai, Mr LEUNG Yiu-chung, Ms Cyd HO, Mr LEE Cheuk-yan, Dr KWOK Ka-ki, Mr Alan LEONG, Mr CHAN Chi-chuen, Mr IP Kin-yuen and Mr LEUNG Kwok-hung suggested that the Subcommittee should handle the 18 Applications one by one as they involved different reasons and additional information provided by the Applicant Members. Mr WU opined that the Subcommittee should proceed to deal with the Applications from Applicant Members who had clearly stated that they would not attend meetings of the Subcommittee on the matter nor provide supplementary information. He further appreciated Mr Paul TSE's sincerity on the matter as he had indicated his willingness to appear before the Subcommittee and provide supplementary information on his Application if so requested.

7. Ms Cyd HO queried that the reasons provided in some Applications might not be genuine. Given that signification of membership for LegCo committees was conducted in every legislative session, Members and their personal assistants ("PAs") should not have made the mistakes during the process. As such, she did not consider this sufficient grounds for accepting the relevant Applications. She added that the reason stated by Dr CHIANG Lai-wan in her letter was unique and her application should be handled separately. On the other hand, she considered that the reasons provided by Mr Paul TSE, Mr Frankie YICK, Mr LEUNG Che-cheung and Ir Dr LO Wai-kiwok were acceptable. Mr LEE Cheuk-yan shared that the integrity of Applicant Members who had put the blame on their PAs was questionable.

8. Mr IP Kin-yuen concurred that the identical reasons put forward in some Applications were doubtful. He stressed the need for the Subcommittee to deal with the Applications in a careful and serious manner. Mr LEUNG Kwok-hung expressed the same view.

9. Ms Starry LEE, Mr TANG Ka-piu and Mr Martin LIAO suggested that the 18 Applications could be handled jointly. Mr TANG said that the

Subcommittee should expedite making decisions on the Applications. Mr LIAO suggested that the Subcommittee could consider all Applications in a joint discussion, but vote on them individually. He highlighted the right of Members to join the Subcommittee and that such right should be respected.

Inviting Applicant Members to attend another special meeting to explain their reasons of Applications

10. Mr LEE Cheuk-yan, Mr Gary FAN, Dr KWOK Ka-ki, Mr CHAN Chi-chuen, Mr IP Kin-yuen and Mr LEUNG Kwok-Hung considered that the Applicant Members should be invited again to appear before the Subcommittee at a special meeting to explain their Applications.

11. Mr Gary FAN noted that the reasons involved in the Applications could be broadly grouped under four categories: (a) accusing the acts of Members of the pan-democratic camp; (b) seeking in a respectful manner the Subcommittee's discretion in accepting the Applications; (c) putting the blame on PAs for missing the deadline for joining the Subcommittee; and (d) Applicant Members admitting their own faults in missing the deadline. Hence, he agreed that it was necessary to invite the Applicant Members to explain in person the reasons for their Applications. Dr KWOK Ka-ki further suggested that the PAs concerned should be given an opportunity to explain the matter to members, and that Applicant Members should be provided with alternative time slots for attending the special meeting. Mr Alan LEONG remarked that Members applying for late membership for PWSC had been invited three times for attending a special meeting held for the purpose but most Members concerned had declined the invitation.

12. Mr CHAN Chi-chuen pointed out that some Applicant Members had not clearly indicated whether they could not attend today's special meeting because they were unavailable or they were unwilling to attend. He said that unless the Applicant Members expressly declined the Subcommittee's invitation, the Subcommittee should continue inviting them to attend a special meeting held for the purpose and to provide supplementary information.

13. Mr LEUNG Kwok-hung said that he would not support any Applications. Pointing out that Mr Albert CHAN's application for late membership for joining the Subcommittee in June 2014 had been turned down, Mr LEUNG said that the Subcommittee should adopt the same stringent approach in examining the Applications in question. He suggested that the Subcommittee should consider setting criteria for accepting an Application, for instance, requiring the Applicant Member to attend two Subcommittee meetings on time, stay till the end of the meetings and participate in the discussion of items.

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14. Mr Martin LIAO did not agree to the proposal of inviting Applicant Members to attend another special meeting. Given that most Applicant Members had already indicated they would not attend any special meeting for consideration of their Applications nor provide written supplementary information, there would be no point for the Subcommittee to extend an invitation to them again. Instead, the Subcommittee should decide on the Applications based on the information provided by the Applicant Members. The Subcommittee could turn down the Applications if it considered that the reasons given were insufficient.

15. Having regard to the views expressed by members, the Chairman decided that the Applications would be handled individually. He said that based on existing information, including the letters from Applicant Members and their replies to the Subcommittee's invitation for attending today's special meeting, he considered that the Subcommittee could handle Mr CHAN Kin-por's Application at the meeting. The Chairman explained that Mr CHAN had attended the Subcommittee meeting on 12 November 2014, and he had stated clearly in his reply that he did not intend to attend further meeting(s) held for consideration of his Application, and he did not intend to provide written supplementary information. To facilitate the Subcommittee's decision on the remaining 17 Applications, the Chairman said that he would write to the Applicant Members inviting them to attend another special meeting and/or provide written supplementary information, if any. Only when the Applicant Members had indicated in writing that they did not intend to attend any special meeting to be held and/or provide written supplementary information on their Applications, would the Subcommittee then proceed to handle their Applications based on existing information.

16. Mr Steven HO, Mr WONG Ting-kwong and Ms Starry LEE were opposed to the Chairman's decision in handling the Applications. Mr HO pointed out that some Applicant Members had clearly stated their intention in the reply slips. It was a waste of time to invite them to a special meeting again. Mr WONG and Ms LEE requested that the Subcommittee should put all Applications to vote at today's meeting, and considered the proposal of holding another special meeting on the matter a form of filibustering. Ms LEE re-iterated that the Subcommittee should hold a joint discussion on all Applications.

17. The Chairman said that the Subcommittee had to handle the matter in a serious manner. He highlighted the need to provide sufficient opportunities for the Applicant Members, for instance Mr Paul TSE who was willing to attend a special meeting, to explain their cases to Subcommittee members. The Chairman re-iterated that the Subcommittee could deal with the Applications after the Applicant Members concerned had expressed clearly their positions on whether they would attend any special meeting and/or

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provide any supplementary information on their Applications. He said that Applicant Members' attendance at the next special meeting was not a prerequisite for considering their Applications, nor was it possible to compel any Member to attend a meeting.

18. Mr LEE Cheuk-yan, Dr KWOK Ka-ki and Mr Gary FAN supported the Chairman's decision. Mr LEE agreed that the Subcommittee could proceed with handling Mr CHAN Kin-por's Application at today's meeting. He remarked that the pro-establishment camp was urging the Subcommittee to make a decision on the Applications soon because once the Applications had been turned down, Members of the camp could appeal to the Finance Committee on the matter. On the suggestion that the Subcommittee should hold a joint discussion for all Applications, Mr FAN pointed out that the majority of members of the Subcommittee had expressed support for handling the Applications individually.

Point of order under Rules 41(4) and (5) of the Rules of Procedure

19. Dr KWOK Ka-ki pointed out that while Mr CHAN Kin-por had admitted in his letter for missing the deadline for joining the Subcommittee, some Applicant Members had made their PAs scapegoats of their own mistakes. He was of the view that these Applicant Members should be required to make apologies and that the Subcommittee would then consider their Applications.

20. Ms Starry LEE raised a point of order. She considered that Dr KWOK Ka-ki had made unsubstantiated allegations against some Applicant Members. She requested the Chairman to make a ruling on the matter and direct Dr KWOK to withdraw his comments.

21. Mr Gary FAN and Mr IP Kin-yuen considered that Dr KWOK Ka-ki had made the comments based on "reasonable suspicion" as it was unusual for so many PAs to have made the same mistake at the same time.

22. In response to the Chairman's question, ASG1 advised that Rules 41(4) and (5) of the Rules of Procedure ("RoP") provided that "It shall be out of order to use offensive and insulting language about Members of the Council" and "A Member shall not impute improper motives to another Member". In view of Ms Starry LEE's request, he said that the Chairman might consider requesting Dr KWOK Ka-ki to clarify his comments before making a ruling on the matter. ASG1 added that the Chairman's decision on a point of order would be final.

23. Ms Starry LEE held the view that Dr KWOK Ka-ki's comments involved insulting language against and imputed improper motives to some

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Applicant Members. Dr KWOK considered that his comments had not contravened RoP 41(4) or (5). He added that it would be improper to put blame on the PAs and it was therefore necessary to invite the PAs concerned to explain the matter at a Subcommittee meeting. Mr LEE Cheuk-yan remarked that Dr KWOK's comments were criticisms to some Applicant Members and he did not consider that Dr KOWK had used insulting language against LegCo Members. Mr CHAN Chi-chuen opined that RoP 41(5) should be interpreted in a careful manner. He pointed out that Ms LEE had made comments about the Chairman filibustering and such comments might also be regarded as a breach to the said rule. Mr CHAN and Mr LEUNG Yiu-chung further said that, if necessary, the Chairman could consider suspending the meeting and listening to the audio record in order to make a ruling on the point of order.

24. The Chairman pointed out that whether or not a Member's comments or remarks had contravened RoP 41(4) or (5) involved "subjective consideration" by the Member to whom the comments or remarks were targeted at, and therefore it was questionable whether another Member had the right to raise a point of order in the absence of that relevant Member. He considered Dr KWOK Ka-ki's comments had not breached RoP 41(4) or (5). The Chairman added that his ruling on the matter should not be regarded as setting any precedent on the application of RoP 41(4) or (5) for proceedings of other LegCo committees.

25. Referring to the Chairman's ruling on the point of order in question, Mr Steven HO remarked that it was impossible for those Applicant Members who were not present at the meeting to raise the point of order. Mr LEUNG Yiu-chung said that there should not be further discussion on the point of order as the Chairman had made the decision and his ruling would be final. Ms Starry LEE requested to put on record her disagreement with the Chairman's ruling although she respected his decision.

Consideration of Mr CHAN Kin-por's Application

26. The Chairman said that all Applications would be handled individually. He then invited members to consider Mr CHAN Kin-por's Application.

27. The Chairman put the question that the Subcommittee accept Mr CHAN Kin-por's Application to vote. At the request of Mr Gary FAN, the Chairman ordered a division and the division bell was rung for five minutes. The Chairman announced that nine members voted in favour of, and 17 members voted against the question. The voting results of individual members were as follows –



*For*

Mr WONG Ting-kwong  
Mrs Regina IP  
Mr YIU Si-wing  
Mr Christopher CHEUNG  
Mr TANG Ka-piu  
(9 members)

Ms Starry LEE  
Mr Steven HO  
Mr MA Fung-kwok  
Mr Martin LIAO

*Against*

Mr LEE Cheuk-yan  
Mr LEUNG Yiu-chung  
Prof Joseph LEE  
Ms Cyd HO  
Mr Albert CHAN  
Mr Gary FAN  
Dr Kenneth CHAN  
Dr Fernando CHEUNG  
Mr IP Kin-yuen  
(17 members)

Mr James TO  
Mr Frederick FUNG  
Mr Ronny TONG  
Mr Alan LEONG  
Mr WU Chi-wai  
Mr CHAN Chi-chuen  
Dr KWOK Ka-ki  
Mr SIN Chung-kai

28. There being no other business, the meeting ended at 10:04 am.