

立法會
Legislative Council

LC Paper No. ESC59/14-15
(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 Tuesday, 20 January 2015, at 8:30 am**

Members present:

Hon Kenneth LEUNG (Chairman)
Hon SIN Chung-kai, SBS, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kwong, SBS, JP

Members absent:

Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon Frederick FUNG Kin-kee, SBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Starry LEE Wai-king, JP
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, SBS
Hon Claudia MO
Hon Gary FAN Kwok-wai
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Dr Hon Helena WONG Pik-wan
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Hon CHUNG Kwok-pan

Clerk in attendance:

Ms Connie SZETO	Chief Council Secretary (1)4
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Staff in attendance:

Ms Anita SIT	Assistant Secretary General 1
Mr Jason KONG	Council Secretary (1)4
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Miss Yannes HO	Legislative Assistant (1)6
Ms Clara LO	Legislative Assistant (1)8

Action

Applications for late membership from 17 Members

The Chairman advised that the meeting was a continuation of the special meeting of the Establishment Subcommittee ("ESC") on 3 December 2014 to consider the applications for late membership ("Applications") from 17 Legislative Council ("LegCo") Members ("Applicant Members"). The relevant application letters had been circulated to members on 8 and 10 October 2014 vide LC Papers Nos. ESC5/14-15 and ESC6/14-15

respectively. At the meeting on 3 December 2014, taking in account members' views, the Chairman said that he had decided that the Applications be handled individually. The Subcommittee considered and rejected Mr CHAN Kin-por's Application at that meeting.

2. The Chairman said that after the meeting on 3 December 2014, he had written to the 17 Applicant Members inviting them to attend another special meeting to explain their reasons of Applications and to provide supplementary information regarding their Applications. As at 5 January 2015, all of the 17 Applicant Members had provided written replies to the invitation. Mr Paul TSE had indicated that he would attend today's special meeting. Ir Dr LO Wai-kwok had provided supplementary information on his Application and indicated that he had no intention of attending any special meeting. The other 15 Applicant Members had confirmed that they had no intention of attending any special meeting nor providing further supplementary information on their Applications. The above written replies were circulated to members on 8 January 2015 vide LC Papers Nos. ESC30/14-15(01) to (09).

Order for handling the Applications

3. The Chairman advised that, according to the usual practice of LegCo committees, a member's membership status in a committee would take immediate effect as soon as his/her application for late membership was accepted by the relevant committee. Therefore, following the usual practice, if the Subcommittee accepted an Application from an Applicant Member, the Member concerned could participate in the subsequent discussion of and voting on the remaining Applications.

4. In view of Mr Paul TSE's attendance at the meeting, the Chairman said that he had decided that Mr TSE's Application would be handled first. He also decided that, as the other 16 Applicant Members had clearly indicated in writing that they would not attend any special meeting held for considering their Applications and would not provide supplementary information on their Applications, the Subcommittee would proceed to handle their Applications one by one after it had dealt with Mr TSE's Application. As regards the order for handling these 16 Applications ("the order"), the Chairman suggested that reference be made to the decision of the Public Works Subcommittee ("PWSC") at its meeting on 13 January 2015, that the order be worked out according to the date and exact time of submission of the Applications. If the exact time record for an Application was not available, it would be placed after all Applications submitted on the same day. If the above criteria still could not determine an Application in the order, reference would be made to the Applicant Member's position in LegCo's precedence list. The Chairman then directed the proposed order be displayed on the projector screens of the conference room, and sought members' views on the proposed order.

5. Mr LEUNG Kwok-hung agreed that Mr Paul TSE's Application be handled first. He queried why the 16 Applicant Members had not attended today's meeting to explain their Applications. The Chairman said that the 16 Applicant Members had confirmed in writing that they would not attend meetings of the Subcommittee for considering their Applications. He reiterated that reference had been made to the decision of PWSC in working out the proposed order.

6. Mr YIU Si-wing questioned if the acceptance of Applications might result in an absence of a quorum of the current meeting. The Chairman explained that he and one-seventh of the members would form a quorum. As many members were present at the meeting, it was unlikely that the scenario mentioned by Mr YIU would arise.

7. In response to Mr Alan LEONG's enquiry, the Chairman clarified that the 16 Applicant Members had not been informed of the order for handling their Applications as this was his suggestion made with reference to the decision of PWSC. Mr LEONG remarked that at the PWSC meeting on 13 January 2015, some members had pointed out that the order for considering the Applications might impact on the consideration and voting results of subsequent Applications, and hence it was agreed that the PWSC Chairman should write to the Applicant Members informing them of the order before PWSC proceeded to handle the Applications. He suggested that the ESC Chairman could consider doing the same. Mr LEE Cheuk-yan supported Mr LEONG's suggestion.

8. Mr WONG Ting-kwok and Mr NG Leung-sing disagreed with Mr Alan LEONG's suggestion and considered that it was a waste of time to organize another special meeting for considering the Applications. Mr WONG said that as the 16 Applicant Members had clearly indicated that they would not attend today's meeting, the above concern raised by Alan LEONG was remote. Mr WONG pointed out that although Members from the pro-establishment camp ("pro-establishment Members") and those from the pan-democratic camp ("pan-democratic Members") had different political views, there had been a mutual understanding between the two camps in respect of the work of LegCo committees. However, pan-democratic Members had destroyed the mutual understanding in the current session. He expressed dissatisfaction that the Applications had not been handled promptly, and considered that pan-democratic Members were attempting to delay the process.

9. Ms Emily LAU and Mr LEE Cheuk-yan disagreed with Mr WONG Ting-kwong's comment about the mutual understanding. They pointed out that during the discussion between the pan-democratic camp and Mr IP

Kwok-him of the pro-establishment camp in October 2014, Mr IP indicated that pro-establishment Members would take up the chairmanships and deputy chairmanships of most LegCo committees in the current session. This had destroyed the established mutual understanding between the two camps, and was one of the causes leading to the "non-co-operation movement" launched by pan-democratic Members. Given that an agreement could not be reached between the two camps, Members in both camps had acted on their own initiatives in joining LegCo committees and contesting for chairmanships and deputy chairmanships. Ms LAU said that the case had demonstrated the "hegemony" of the pro-establishment camp, and considered it necessary to state clearly the reasons leading to the current situation. Mr LEE said that he supported handling Mr Paul TSE's Application first. He remarked that the major reason for pro-establishment Members to apply for late membership was to regain a majority of membership in the Subcommittee to support the Administration's proposals. He said that if pan-democratic Members were able to maintain its current majority of membership, they could effectively monitor Government's expenditure and reject unnecessary staffing proposals. In this connection, Mr NG Leung-sing remarked that, as Mr IP was not present at the meeting, it would be inappropriate for Ms Emily LAU to say that the pro-establishment camp had abandoned the mutual understanding between the two camps during the discussion in October 2014.

10. Having regard to the views expressed by members, the Chairman decided that he would inform the 16 Applicant Members in writing that their membership status would take immediate effect once their Applications were accepted by the Subcommittee, and the order for handling their Applications. He considered that the 16 Applicant Members should be made known of the principles in working out the order and the possible implications.

Consideration of Mr Paul TSE's Application

11. At the Chairman's invitation, Mr Paul TSE explained the reasons for his Application. He said that when LegCo Members were invited to signify membership for the Subcommittee at the beginning of the current session, he did not intend to join due to consideration of his heavy workload. After the registration deadline, he observed that due to incidents happened in society lately, there were disruptions in the order of meetings in LegCo. With his professional background in law, he hoped that he could contribute to resuming the order at meetings of committees. Mr TSE held the view that, despite Members had different political orientations, they should show mutual respect and etiquette in LegCo, engage in discussions and debates in a civilized manner, and endeavour to build consensus in LegCo business, in order to achieve quality democracy. He hoped that by giving neutral and impartial views he could be the bridge between the pro-establishment and pan-democratic camps. Mr TSE extended his apologies for missing the

registration deadline and not being able to attend the last special meeting on 3 December 2014 as he was not in Hong Kong at that time. He added that if his Application was accepted, he would not participate in the discussion of the remaining Applications nor take part in the voting, but would stay until the end of the meeting.

12. Mr LEE Cheuk-yan, Mr LEUNG Kwok-hung, Mr WU Chi-wai and Mr IP Kin-yuen commended Mr Paul TSE for attending the meeting to explain the reasons of his Application. Mr LEE asked if Mr TSE knew the reasons of other Applicant Members in submitting their Applications. Mr TSE replied that he had not discussed with other Applicant Members before submitting his Application, nor had he sought information about the reasons of other Applicant Members. He submitted his Application partly because he noticed that there were significant differences between pro-establishment and pan-democratic camps, and hoped that he could close the gap.

13. Noting that Mr Paul TSE hoped to resolve the differences between the two camps, Ms Emily LAU sought Mr TSE's views on the causes of the "non-co-operation movement" in LegCo and how he would tackle the problem. Mr Paul TSE responded that, to promote the development of a democratic culture, stakeholders should engage in discussions and co-operation and maintain mutual respect in various aspects including, the relationship between the Administration and the Legislature, relationship between the opposite camps in LegCo, as well as in balancing the interests among different sectors and interest groups in the community. He was of the view that, while Hong Kong had a good culture of the rule of law, there were rooms for improvement in its culture in democracy, and LegCo Members should set a good example in this regard. Mr TSE said that he understood the background leading to the "non-co-operation movement" and was mindful of the problems in the operation of LegCo. He was aware that he could not tackle the problems all by himself as he did not belong to any political party.

14. Mr CHAN Chi-chuen said that Members' right to speak and put questions on the Administration's proposals at both ESC and PWSC meetings was not restrained by their membership status, nor would their speaking order be affected. The only difference between member and non-member status was their voting right at the two Subcommittees. As the Finance Committee ("FC") was not bound by the recommendations of ESC, the Administration might submit a staffing proposal to FC even if it was rejected by ESC. It appeared that the voting right at ESC would not be that essential for pro-establishment Members. As such, he asked why Mr TSE had considered it necessary to join ESC.

15. Mr Paul TSE said that members' voting right would affect their level of participation in the business of a committee. He said that being a

member of ESC would enhance interaction with the Administration, as the Administration would seek to explain controversial proposals to members and lobby for their support. As regards submission of funding proposals to FC, he opined that both LegCo Members and the Administration should follow the established rules and practices in LegCo.

16. Mr CHAN Chi-chuen asked if Mr TSE would participate in ESC meetings if his Application was rejected. He also sought Mr TSE's views on a member's suggestion made at the previous special meeting that criteria be set for accepting an Application, for instance, requiring the Applicant Member to attend a certain number of meetings of the Subcommittee as a non-member. Mr TSE responded that he might not be interested in all proposals put forward to ESC if he was not a member. He considered the suggestion of setting criteria for acceptance of late membership for committees dangerous as this might give rise to unfair treatment of late members vis-à-vis existing members. For instance, a question might be raised as whether the membership status of a member of a committee with a low attendance record should be revoked.

17. Mr NG Leung-sing urged pan-democratic Members not to delay the consideration of Applications, and considered that all Applications should be dealt with in one lot where members could give their approval or otherwise to each Application. On Mr Paul TSE's Application, Mr NG commended Mr TSE for his persistence in pursuing his Application. He said that, while pan-democratic Members held the majority in membership in ESC, any effort to reason with them would be futile. Mr Paul TSE responded that he did not hold the same opinion towards pan-democratic Members, and he understood that in some occasions pan-democratic Members might also consider reasoning with pro-establishment Members a futile effort. He added that in attending the meeting of the Subcommittee to explain his Application, he had no intention of breaking the solidarity of pro-establishment Members. He apologized to other Applicant Members for acting in his own way.

18. Mr LEUNG Kwok-hung and Mr WU Chi-wai remarked that the current disputes in LegCo and the "non-co-operation movement" stemmed from a number of problems including, the constitutional reform, failure of the Chief Executive ("CE") and the Government to pay heed to public opinions, a lack of confidence of LegCo Members in CE's integrity, and a lack of people's mandate in the offices of CE and politically appointed officials. The withdrawal of agenda items at FC by the Administration to advance the discussion on the proposals related to the establishment of the Innovation and Technology Bureau was a case in point. Mr LEUNG also opined that the Government and pro-establishment Members should make compromises in order to reconcile with pan-democratic Members.

19. Mr WU Chi-wai pointed out that pan-democratic Members in the Subcommittee had to make a political judgement in considering whether Mr Paul TSE's Application should be accepted. Considering that Mr Paul TSE had attended before the Subcommittee to explain the reasons of his Application, Mr WU said that he supported Mr TSE's Application.

20. Mr Albert CHAN opined that Members should not be deprived of the right to join the Subcommittee. Based on this principle, pan-democratic Members should not reject the Applications only because they might become the minority in the Subcommittee in the end. Mr CHAN said that he accepted Mr Paul TSE's explanation, and called on members to support the Application. Mr CHAN pointed out that his application for late membership for the Subcommittee made in 2013-2014 session had been rejected by pro-establishment Members but Mr TSE was not a member of the Subcommittee of that session.

21. Mr IP Kin-yuen opined that the Subcommittee should examine the Applications one by one prudently, especially in view that identical reasons were put forward in some Applications. He supported Mr Paul TSE's Application and respected the reasons given by Mr TSE. Mr IP added that while he held different views with Mr TSE on some matters, he agreed with Mr TSE's view that there should be mutual respect and etiquette in LegCo.

22. Mr Paul TSE thanked the above members for their support on his Application. He reiterated that he did not intend to break the solidarity of pro-establishment Members but considered it necessary to explain his reasons of Application in person before the Subcommittee. As a holder of public office, he endeavoured to give priority to public interests over his own interests.

23. Referring to the discussion on achieving quality democracy in Hong Kong, the Chairman expressed the view that there were defects in the current system in respect of the membership and operation of LegCo committees. He observed that in some overseas legislatures, most committees were composed of 10 to 20 members. Although legislators might choose to join the committees based on their schedules and experience, their participation in the committees were also subject to the coordination by their party whips/chief whips. Backbenchers, who were usually newly elected legislators, might not be able to join any committee at all. In the parliaments of the United Kingdom and Germany, each legislator could only join one or two committees at a time. The Chairman considered that in Hong Kong, due to inadequate resources provided to LegCo Members, it was not uncommon for a Member to join over 10 committees at the same time, resulting in extremely heavy workload. The Chairman was of the view that, to enhance the parliamentary culture in Hong Kong, each LegCo Member should only be allowed to join a

limited number of committees so that his/her contribution and commitment to the work of such committees could be enhanced.

24. The Chairman put the question that the Subcommittee accept Mr Paul TSE's Application to vote. At the request of Mr LEUNG Kwok-hung, the Chairman ordered a division and the division bell was rung for five minutes. The Chairman announced that 20 members voted in favour of, and none voted against the question. The voting results of individual members were as follows –

For

Mr LEE Cheuk-yan	Mr LEUNG Yiu-chung
Ms Emily LAU	Ms Cyd HO
Mr Alan LEONG	Mr LEUNG Kwok-hung
Mr Albert CHAN	Mr NG Leung-sing
Mr Steven HO	Mr WU Chi-wai
Mr YIU Si-wing	Mr MA Fung-kwok
Mr Charles MOK	Mr CHAN Chi-chuen
Dr Kenneth CHAN	Mr Christopher Cheung
Dr Fernando CHEUNG	Mr SIN Chung-kai
Mr IP Kin-yuen	Mr Martin LIAO
(20 members)	

Handling of other Applications

25. The Chairman reiterated that he would write to the remaining 16 Applicant Members informing them of the order for handling their Applications. Mr Alan LEONG suggested that the 16 Applicant Members be informed of the fact that Mr Paul TSE's Application received unanimous support of the members present at today's meeting. The Chairman agreed.

26. Mr Albert CHAN queried the reason of "mistake made by the Personal Assistant ("PA")" put forward by some Applicant Members in their Applications. He criticized these Members for shirking their responsibility on their PAs, and said that he would not support such Applications. He reiterated that the Applicant Members concerned should be requested to explain to the Subcommittee the process of communication with their PAs and how the mistakes were made. He said that if such Applicant Members refused the request, he might consider proposing a motion to reprimand these Members. Ms Emily LAU concurred that Applicant Members should be responsible for their own acts and should not make their PAs scapegoats. She agreed with Mr CHAN's suggestion that such Members should be invited to explain their cases before the Subcommittee.

(Post-meeting note: The Chairman wrote to the 16 Applicant Members on 28 January 2015 inviting them to (a) attend the third special meeting, (b) take note of the acceptance of Mr Paul TSE's Application by the Subcommittee, and (c) take note of the order for consideration of the 16 Applications. The Chairman subsequently decided that the special meeting be held on 17 March 2015, from 10:45 am to 12:45 pm. The notice of meeting was issued vide ESC49/14-15 issued on 12 February 2015.)

27. There being no other business, the meeting ended at 9:52 am.

Council Business Division 1
Legislative Council Secretariat
12 March 2015