

## **Part I            Establishment of the Select Committee and its Work**

### **Chapter 1    Introduction**

#### **Background**

1.1     The Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") is an express rail system with a total length of about 140 kilometres ("km") linking Hong Kong with Guangzhou via Futian and Longhua in Shenzhen and Humen in Dongguan. It will form part of the National High-speed Railway Network. The Hong Kong section ("HKS") of XRL project ("the Project") is a 26-km long underground railway system running from a new terminus in West Kowloon, going northbound passing through Tsim Sha Tsui, Yau Ma Tei, Mong Kok, Sham Shui Po, Kwai Chung, Tsuen Wan, Yuen Long to the boundary area south of Huanggang, where it will connect to the Mainland section of XRL.

1.2     In April 2008, the Chief Executive in Council decided that the Central Alignment Scheme<sup>1</sup> should be adopted for HKS of XRL; that the MTR Corporation Limited ("the Corporation") should proceed with the planning and design of HKS of XRL on the understanding that it would be invited to operate HKS of XRL under the concession approach; and that further negotiations should be carried out with the Corporation on the implementation of HKS of XRL. In July 2008, the Legislative Council ("LegCo" or "Council") Finance Committee ("FC") approved a funding of \$2.7826 billion for the design and site investigation of the Project. On 24 November 2008, the Government of the Hong Kong Special Administrative Region ("the Government") and the Corporation entered into the Entrustment Agreement for Design and Site Investigation in relation to the Express Rail Link ("EA1"). The Chief Executive in Council further decided in October 2009 that the Corporation should

---

<sup>1</sup> The Central Alignment Scheme was a shorter and more direct route without going through the existing Kam Sheung Road Station of the West Rail Line. See Annex A of the Government's paper on HKS of XRL (Legislative Council Brief) (File Ref.: THB(T)CR 1/16/581/99) for the meeting of the Subcommittee on Matters Relating to Railways on 2 May 2008.

proceed with the construction, testing and commissioning of HKS of XRL on the understanding that it would be invited to operate the railway system under the concession approach.

1.3 On 16 January 2010, FC approved the funding for the construction of the railway (\$55.0175 billion) and non-railway works (\$11.8 billion) of HKS of XRL, amounting to a total of \$66.8175 billion. Of this amount, a sum of \$65 billion was allocated by the Government to the Corporation to carry out the construction and commissioning of the Project. The remaining \$1.8175 billion was retained by the Government for project monitoring, Government facilities and other works associated with the Project that are not within the responsibility of the Corporation. On 26 January 2010, the Government and the Corporation entered into the Entrustment Agreement for Construction and Commissioning of the Express Rail Link ("EA2"). According to EA2, the Corporation should use its best endeavours to complete or procure the completion of the Entrustment Activities in accordance with the Entrustment Programme (subject to fair and reasonable adjustment under justifiable situations) and to minimize any delay or other effect which any modification might have on the Entrustment Programme. EA2 indicated that the Project should have completed testing and trial running, and be ready for operation, in August 2015.

1.4 Construction work of the Project commenced at the end of January 2010 with a target completion date set for 4 August 2015. On 15 April 2014, Professor Anthony CHEUNG Bing-leung, Secretary for Transport and Housing, informed the public that the Government had recently received verbal notification from the Corporation that the construction of HKS of XRL could not be completed by 2015.

1.5 Professor Anthony CHEUNG Bing-leung indicated in his statement<sup>2</sup> (**Appendix 1**) that *"... Late last year [i.e. 2013] on November 22, when the Government made its regular report on the express rail project to the railways subcommittee (Subcommittee on Matters Relating to Railways) of the LegCo (Legislative Council), based on the information supplied by the Corporation, we informed the LegCo that our objective remained to have the construction works completed in*

---

<sup>2</sup> Source: The Government's press release on "Transcript of remarks by Secretary for Transport and Housing" issued on 15 April 2014.

*2015. Following which there will be a period of six to nine months for testing and trial runs. And after that, of course, the rail service will be commissioned. However, over the last weekend, I was informed by the Chairman and the Chief Executive Officer of the MTR Corporation that based on the latest assessment of the progress of the construction works, the project will be subject to some delay. And it will not be possible for the works to be completed in 2015. I have to say I was totally caught by surprise by such information, and obviously I felt very disappointed and deeply concerned about the delay."*

1.6 Professor Anthony CHEUNG Bing-leung immediately requested the Corporation to submit a full assessment report, provide a full account and explain the situation to the public as soon as possible.

1.7 On the same day, i.e. 15 April 2014, the Corporation announced<sup>3</sup> (**Appendix 2**) that the time of completion of the Project would be postponed to 2016 and HKS of XRL would be ready for operation in 2017. The reasons provided by the Corporation included a tunnel boring machine being severely damaged by floodwater, the extremely difficult ground conditions at the West Kowloon Terminus ("WKT") site and the complex geology at the cross-boundary section of the tunnels under the protected wetland areas.

1.8 The announcements referred to in paragraphs 1.5 and 1.7 above caused wide public concern. The Corporation set up an Independent Board Committee ("IBC") on 29 April 2014 to comprehensively review the managerial approach of the Project. The Government also formed an Independent Expert Panel ("IEP") on 16 May 2014 to review matters relating to the delay of the construction of HKS of XRL ("the project delay"). The membership and terms of reference of IBC and IEP are set out in **Appendix 3** for reference.

1.9 Meanwhile at the LegCo House Committee ("HC") meeting on 2 May 2014, some Members proposed to seek Council's authorization in the name of HC for the appointment of a select committee to inquire into the project delay and related matters; and that in performance of its duties the select committee be authorized to exercise powers under section 9(1)

---

<sup>3</sup> Source: The MTR Corporation Limited's press release on "Revised Programme for Hong Kong Section of Express Rail Link Project" issued on 15 April 2014.

of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) of the Laws of Hong Kong. After discussion, HC did not endorse the proposal. On 9 May 2014, some Members requested HC to reopen discussion on similar proposals. After discussion, the request was not supported.

1.10 At the LegCo Subcommittee on Matters Relating to Railways ("Railways Subcommittee") meeting on 19 May 2014, Hon WU Chi-wai moved a motion to seek the support of Railways Subcommittee to appoint a select committee to inquire into the causes for the delay in the construction of HKS of XRL and that the select committee be authorized to exercise powers under section 9(1) of Cap. 382. Hon Gary FAN Kwok-wai also moved a motion that Railways Subcommittee should seek HC's support for appointing a select committee to inquire into the Corporation in respect of the delay in the construction of HKS of XRL and the select committee be authorized to exercise powers under section 9(1) of Cap. 382. Both motions were defeated.

1.11 At the Council meeting on 11 June 2014, Hon Gary FAN Kwok-wai moved a motion to appoint a select committee to inquire into whether the Corporation had covered up the progress and causes of delay in the construction of HKS of XRL, and whether there were problems with the Government and the Corporation in supervising and coordinating the construction of HKS of XRL; and that in the performance of its duties the select committee be authorized under section 9(2) of Cap. 382 to exercise the powers conferred by section 9(1). The motion was defeated.

### **Establishment of the Select Committee**

1.12 At the Council meeting on 25 June 2014, Hon WU Chi-wai and Hon Charles Peter MOK jointly presented a petition in connection with the project delay (**Appendix 4**). The request of Hon Charles Peter MOK for the petition to be referred to a select committee was supported by 21 Members who rose in their places. The petition then stood referred to a select committee under Rule 20(6) of the Rules of Procedure ("RoP") of LegCo.

1.13 At the HC meeting on 4 July 2014, Members agreed to appoint a subcommittee to undertake preparatory works for the select committee to

be formed. The subcommittee submitted a report to HC on 7 November 2014. HC noted the subcommittee's recommendations on the terms of reference and the name of the select committee, and endorsed the subcommittee's recommendations on the membership size of the select committee and the procedure for nomination and election of Members for appointment to the select committee.

1.14 On 14 November 2014, HC recommended 13 Members for appointment to the 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 ("the Select Committee"). The 13 Members then held a closed meeting and elected amongst themselves Hon Martin LIAO Cheung-kong and Hon Tony TSE Wai-chuen respectively as Chairman and Deputy Chairman of the Select Committee. In accordance with Rule 78(2) of RoP, on 17 November 2014, the President of LegCo appointed the Chairman, Deputy Chairman and members of the Select Committee as recommended by HC. The Select Committee held its first meeting on 9 December 2014.