

立法會  
*Legislative Council*

LC Paper No. CB(3) 494/17-18

Ref: CB(3)/IC/16/7

**Investigation Committee established under Rule 49B(2A) of  
the Rules of Procedure in respect of the motion  
to censure Dr Hon CHENG Chung-tai**

**Minutes of the sixth closed meeting  
held on Monday 5 February 2018 at 2:00 pm  
in Conference Room 4 of the Legislative Council Complex**

**Members present** : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)  
Dr Hon Junius HO Kwan-yiu, JP (Deputy Chairman)  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon SHIU Ka-fai  
Hon CHAN Chun-ying  
Hon CHEUNG Kwok-kwan, JP  
Hon LUK Chung-hung

**Clerk in attendance** : Mr Thomas WONG  
Chief Council Secretary (3)1

**Staff in attendance** : Mr Kenneth CHEN, SBS  
Secretary General

Ms Connie FUNG  
Legal Adviser

Miss Odelia LEUNG  
Deputy Secretary General

Ms Dora WAI  
Assistant Secretary General 3

Mr Kelvin LEE  
Legal Adviser to Investigation Committee/  
Senior Assistant Legal Adviser 3

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Miss Lilian MOK  
Senior Council Secretary (3)2

Miss Fanny LEUNG  
Administrative Assistant I (3)3

**I. Deliberations on the draft Report of the Investigation Committee**

*(English version of the draft Report issued vide LC Paper No. CB(3) 310/17-18 on 25 January 2018)*

*(Chinese version of the draft Report issued vide LC Paper No. CB(3) 337/17-18 on 2 February 2018)*

The Chairman said that the Clerk had prepared the draft Report of the Investigation Committee (“IC”) (“the draft Report”) based on members’ views expressed at previous meetings. She invited the Clerk to brief members on the draft Report which comprised five chapters:

Chapter 1 : Introduction

Chapter 2 : Constitutional and statutory requirements relating to the motion to censure Dr Hon CHENG Chung-tai (“Dr CHENG”) (“censure motion”)

Chapter 3 : Information and evidence relevant to the particulars of the misbehaviour set out in the Schedule to the censure motion

Chapter 4 : Establishing the facts and whether the facts as established constitute grounds for the censure of Dr CHENG

Chapter 5 : Observations on the mechanisms in the Rules of Procedure for handling Members’ misbehaviour

Deliberations on draft Chapter 4

2. The Chairman advised members that Chapter 4 needed to be beefed up based on members’ views to be given at this meeting. She invited members to first give their views on Chapter 4, particularly whether the five “facts” stated in the Schedule to the censure motion could be established; whether Dr CHENG’s conduct of inverting the mock-ups of the national flag of the People’s Republic of China (“PRC”) and regional flag of the Hong Kong Special Administrative Region (“HKSAR”) of PRC at the Council

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meeting of 19 October 2016 (“the said Council meeting”) constituted “breach of oath” and/or “misbehaviour” under Article 79(7) of the Basic Law (“BL”); and whether the facts as established constituted grounds for the censure of Dr CHENG. Based on members’ views, the Clerk would assist IC in finalizing Chapter 4 of the draft Report.

3. In response to Mr SHIU Ka-fai’s enquiry about BL 79(6) and 79(7), the Chairman explained that BL 79 set out different circumstances in which a Legislative Council (“LegCo”) Member would be disqualified from the office. BL 79(6) might be invoked when a LegCo Member was convicted and sentenced to imprisonment for one month or more for a criminal offence, while BL 79(7) did not necessarily cover criminal offences committed by Members. BL 79(7) provided that the President should declare that a Member was no longer qualified for the office when he or she was censured for misbehaviour or breach of oath by a vote of two-thirds of Members present. The Chairman pointed out that in the view of the Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai (“the first investigation committee”), it would be more appropriate for the Council of the day to make a decision on what kinds of behaviour would constitute “misbehaviour” or “breach of oath” under BL 79(7).

4. The Chairman remarked that there had been a tide of thought advocating Hong Kong independence in recent years. There were people vilifying the Mainland China, stirring up anti-Chinese sentiments and even conducting deliberate acts to tarnish the dignity of PRC. It was against this background that IC needed to decide whether Dr CHENG’s acts of inverting the mock-ups of the national flag and regional flag was a refusal to recognize or respect the legitimacy of PRC as the sovereign state of HKSAR, and whether he genuinely and faithfully accepted and committed himself to the obligations of upholding BL and bearing allegiance to HKSAR as required by the LegCo Oath that Dr CHENG had taken.

5. Members generally shared the view that the national flag and regional flag were respectively the unique symbols of PRC and HKSAR. The way Dr CHENG inverted those flags at the said Council meeting had tarnished the dignity of those flags and the reputation of PRC and HKSAR. The relevant remarks made by Dr CHENG had also indicated that he did not take the oath sincerely and solemnly and refused to uphold BL and bear allegiance to HKSAR. Furthermore, members noted that Dr CHENG had declined to attend IC’s hearings, and had neither apologized nor shown any regret for his acts of inverting those flags.

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6. After discussion, members unanimously agreed that: (a) the five “facts” stated in the Schedule to the censure motion were established as set out in Chapter 4 of the draft Report; (b) the two allegations against Dr CHENG set out in the censure motion were substantiated based on the established facts; and (c) the facts as established constituted grounds for the censure of Dr CHENG.

Whether to include Chapter 5 in the draft Report

7. The Chairman drew members’ attention that under the existing censure mechanism, the Member under investigation would either be censured (thus being disqualified from the office upon passage of the censure motion) or not be censured, resulting in an “all or nothing” outcome. Unlike some overseas legislatures where proportionate sanctions (e.g. withholding salary) were in place to deal with misbehaviour which was not so serious as to warrant disqualification from the office, there was no “midway” approach in LegCo for handling Members’ misbehaviour of varying degrees of severity. Nonetheless, IC was not tasked to offer its observations on the existing mechanisms in the Rules of Procedure for handling Members’ different types of misbehaviour.

8. Members noted that the first investigation committee had considered that Hon KAM Nai-wai’s conduct was improper but not so grave as to warrant disqualification from the office as a LegCo Member. It therefore set out in its report that LegCo should consider the need of putting in place a comprehensive mechanism for handling Members’ misbehaviour of varying degrees of severity. However, the subject had yet to be studied by the Committee on Rules of Procedure (“CRoP”).

9. Dr Elizabeth QUAT considered the “all or nothing” outcome under the current censure mechanism undesirable. She suggested that IC should include its observations on those mechanisms in its Report to facilitate further refinements of the mechanisms in the future. In her view, such inclusion would not weaken the justification for censuring Dr CHENG. The Deputy Chairman did not object including IC’s relevant observations in IC’s Report, but he considered it not necessary to set out the observations in a separate chapter.

10. The Chairman considered that as IC had reached a unanimous view that Dr CHENG should be censured, the inclusion of a chapter in IC’s Report on its observation and views on refinements of the existing mechanisms for handling Members’ misbehaviour might give rise to a perception that, if there were proportionate sanctions, Dr CHENG’s alleged misbehaviour might not

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be considered so serious by IC as to warrant disqualification from the office.

11. Legal Adviser suggested and members agreed that instead of including a separate chapter on IC's observations on the inadequacies of the existing mechanisms for handling Members' misbehaviour, IC might consider setting out its view, where appropriate in Chapter 4, that the "all or nothing" outcome was not a desirable way of handling Members' misbehaviour of varying degrees of severity, and this was a subject worthy of examination by CRoP. IC might also stress in its Report that it was precisely because of the "all or nothing" outcome that IC had to exercise great prudence in forming its views on whether Dr CHENG's conduct constituted breach of oath and/or misbehaviour under BL 79(7).

Clerk

12. The Chairman concluded that based on members' views, the Clerk would revise Chapter 4 of the draft Report for members' further consideration. After this meeting, the Clerk would consult members on the date of the next meeting.

*(Post-meeting note :* On the Chairman's instruction, the seventh closed meeting of IC was scheduled for 2 March 2018.)

**II. Any other business**

13. There being no other business, the meeting ended at 4:05 pm.

Council Business Division 3  
Legislative Council Secretariat  
6 April 2018

立法會  
*Legislative Council*

LC Paper No. CB(3) 495/17-18

Ref: CB(3)/IC/16/7

**Investigation Committee established under Rule 49B(2A) of  
the Rules of Procedure in respect of the motion  
to censure Dr Hon CHENG Chung-tai**

**Minutes of the seventh closed meeting  
held on Friday 2 March 2018 at 11:10 am  
in Conference Room 4 of the Legislative Council Complex**

**Members present** : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)  
Dr Hon Junius HO Kwan-yiu, JP (Deputy Chairman)  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon SHIU Ka-fai  
Hon CHAN Chun-ying  
Hon CHEUNG Kwok-kwan, JP  
Hon LUK Chung-hung

**Clerk in attendance** : Mr Thomas WONG  
Chief Council Secretary (3)1

**Staff in attendance** : Miss Odelia LEUNG  
Secretary General (Atg)/Deputy Secretary General

Ms Connie FUNG  
Legal Adviser

Ms Dora WAI  
Assistant Secretary General 3

Mr Kelvin LEE  
Legal Adviser to Investigation Committee/  
Senior Assistant Legal Adviser 3

Miss Lilian MOK  
Senior Council Secretary (3)2

Miss Fanny LEUNG  
Administrative Assistant I (3)3

**I. Deliberations on the revised draft Report of the Investigation Committee**

*(Chinese and English versions of the revised draft Report issued vide LC Paper No. CB(3) 386/17-18 on 28 February 2018)*

The Chairman said that the revised draft Report of the Investigation Committee (“IC”) (“the revised draft Report”) had incorporated members’ views expressed at the meeting on 5 February 2018.

2. Mr CHAN Chun-ying asked whether IC had to establish the five “facts” stated in the motion to censure Dr Hon CHENG Chung-tai (“Dr CHENG”) (“the censure motion”) as the facts had already been affirmed in the reasons for verdict and sentence in respect of the case of *HKSAR v CHENG Chung-tai* (ESCC 1139/2017) handed down by the Eastern Magistrates’ Court on 29 September 2017 (“Reasons for Verdict and Sentence”).

3. Members noted that under Rule 73A(2) of the Rules of Procedure, IC was responsible for establishing the “facts” stated in the censure motion and giving its views on whether or not the facts as established constituted grounds for the censure of Dr CHENG. The court was responsible for adjudicating on the criminal liability of Dr CHENG, whereas IC was tasked to investigate and consider the matters stated in the censure motion. The Chairman reminded members that IC might make reference to the Reasons for Verdict and Sentence but it had the duty to establish the relevant facts independently and, based on the established facts, form its own views on whether Dr CHENG should be censured under Article 79(7) of the Basic Law.

Consideration of the revised draft Report

4. Members agreed to first consider the Chinese text of the revised draft Report paragraph by paragraph.

*Chapter 1*

5. Paragraphs 1.1 to 1.12 read and agreed to.

*(Post-meeting note :* The Chairman suggested and members agreed that amendments to paragraphs 1.11 and 1.12 be made. Please see the post-meeting note in paragraph 2 of the minutes of the eighth closed meeting of IC held on 9 March 2018.)

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6. Members agreed that paragraphs 1.13 and 1.14 (renumbered as 1.14 and 1.15 respectively) be amended to highlight the fact that IC was not a court of law and therefore not subject to the standards of proof and rules of evidence applied by the court in criminal and civil proceedings. Nonetheless, IC decided to adopt the stringent standard of proof which had been adopted by the Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai, i.e. the more serious the allegation, the more compelling the evidence is required to establish the allegation. Members also agreed that a footnote be added to paragraph 1.13 (renumbered as 1.14) quoting the relevant part of the court judgment on the above standard of proof.

7. Paragraph 1.15 read and agreed to.

8. Paragraph 1.16 read, textually amended and agreed to.

9. Paragraph 1.17 read and agreed to.

10. Members agreed that textual amendments be made to paragraphs 1.18 and 1.19.

11. Members agreed that the first sentence of paragraph 1.20 (renumbered as 1.21) be amended as follows:

“調查委員會認為必須公平對待鄭議員，亦須遵守正當程序包括自然公義的原則，因此曾3次致函邀請鄭議員出席研訊或協助調查。”

12. Paragraph 1.21 read, textually amended and agreed to.

13. Paragraphs 1.22 to 1.24 read and agreed to.

14. Paragraph 1.25 read, textually amended and agreed to.

15. Paragraphs 1.26 to 1.28 read and agreed to.

*Chapter 2*

16. Members agreed that the following footnote be added to the term “Democratic Alliance for the Betterment and Progress of Hong Kong” in paragraph 2.1:



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“據本報告第3章所述，在該立法會會議上，並非只有民建聯議員擺放的國旗及區旗展示品被鄭議員倒插，其他一些議員的國旗及區旗展示品亦被他倒插。”

17. Paragraph 2.2 read and agreed to.
18. Paragraph 2.3 read, textually amended and agreed to.
19. Paragraphs 2.4 to 2.8 read and agreed to.
20. Paragraph 2.9 read, textually amended and agreed to.
21. Paragraphs 2.10 to 2.32 read and agreed to.
22. Members agreed that the expression “有用參考” be substituted by “重要參考” in paragraph 2.33. The revised paragraph 2.33 then read and agreed to.

*Chapter 3*

23. Members agreed that the last sentence of paragraph 3.1 be amended as follows:

“調查委員會察悉，鄭議員沒有提交任何書面陳述書或在調查委員會席前作證，並表示他對調查委員會的調查工作、譴責議案及調查委員會所收到的證人書面陳述書的內容均沒有意見。為求全面考慮譴責議案所述的事宜，調查委員會亦搜集了鄭議員對傳媒查詢他倒插國旗及區旗展示品一事的回應，以及在其面書(Facebook)專頁的相關帖文，詳情載於本章。”

*(Post-meeting note :* The Chairman suggested and members agreed that the above sentences be deleted in view of the deletion of paragraphs 3.28, 3.29, 3.30, 3.32 and 3.33.)

24. Paragraphs 3.2 to 3.33 read, textually amended and agreed to.

*(Post-meeting note :* The Chairman suggested and members agreed that paragraphs 3.28, 3.29, 3.30, 3.32 and 3.33, which set out the relevant information on Dr CHENG’s responses to

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media enquiries about his acts of inverting the mock-ups of the national flag and regional flag and his relevant remarks on his Facebook page after the Council meeting of 19 October 2016, be deleted, as such information was neither evidence provided by Dr CHENG nor official records of the Legislative Council. Please see paragraph 7 of the minutes of the eighth closed meeting held on 9 March 2018).

Clerk 25. The Chairman advised members that taking into account their views and comments above, the revised draft Report would be further amended for their consideration.

*(Post-meeting note :* The Chinese version of the second revised draft Report was issued to members vide LC Paper No. CB(3) 401/17-18 on 7 March 2018.)

**II. Any other business**

26. The Chairman proposed and members agreed that the next meeting be held on Friday 9 March 2018 at 2:00 pm to consider Chapter 4 of the revised draft Report paragraph by paragraph.

*(Post-meeting note :* The notice of meeting was issued to members after this meeting vide LC Paper No. CB(3) 396/17-18 dated 2 March 2018.)

27. There being no other business, the meeting ended at 1:10 pm.

Council Business Division 3  
Legislative Council Secretariat  
6 April 2018

立法會  
*Legislative Council*

LC Paper No. CB(3) 496/17-18

Ref: CB(3)/IC/16/7

**Investigation Committee established under Rule 49B(2A) of  
the Rules of Procedure in respect of the motion  
to censure Dr Hon CHENG Chung-tai**

**Minutes of the eighth closed meeting  
held on Friday 9 March 2018 at 2:00 pm  
in Conference Room 4 of the Legislative Council Complex**

**Members present** : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)  
Dr Hon Junius HO Kwan-yiu, JP (Deputy Chairman)  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon SHIU Ka-fai  
Hon CHAN Chun-ying  
Hon CHEUNG Kwok-kwan, JP  
Hon LUK Chung-hung

**Clerk in attendance** : Mr Thomas WONG  
Chief Council Secretary (3)1

**Staff in attendance** : Mr Kenneth CHEN, SBS  
Secretary General

Ms Dora WAI  
Assistant Secretary General 3

Mr Kelvin LEE  
Legal Adviser to Investigation Committee/  
Senior Assistant Legal Adviser 3

Miss Lilian MOK  
Senior Council Secretary (3)2

Miss Fanny LEUNG  
Administrative Assistant I (3)3

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**I. Deliberations on the second revised draft Report of the Investigation Committee (Chinese version)**

*(issued vide LC Paper No. CB(3) 401/17-18 on 7 March 2018)*

The Chairman advised members that their views raised at the meeting on 2 March 2018 had been incorporated into the Chinese version of the second revised draft Report of the Investigation Committee (“IC”) (“the second revised draft Report”) in which the relevant amendments had been marked up.

Deliberations on the second revised draft Report (Chinese version)

*Chapters 1 and 2*

2. No further amendments to Chapters 1 and 2 were proposed by members.

*(Post-meeting note :* The Chairman suggested and members agreed that further amendments be made to paragraphs 1.11 and 1.12 as follows:

- (a) the sentence “調查委員會認為無須暫停其調查工作，以待針對鄭議員的刑事法律程序完結。” be deleted from paragraph 1.11, and the sentences “調查委員會認為無須因上述法律程序而暫停其閉門取證工作。縱使如此，調查委員會尊重個別證人(即第1.19段所述的蔣麗芸議員和劉國勳議員)要求就上述案件出庭作證後，才到調查委員會席前作證，而調查委員會亦待法庭就上述案件作出判決後，才就譴責議案所述的事宜作出結論。” be added to the end of paragraph 1.11;
- (b) the sentences “以免妨害鄭議員在該待決法律程序中的利益。調查委員會並決定：(a)根據

《議事規則》第73A(4)條，以閉門方式舉行研訊，以免妨害有關鄭議員的法律程序(事實上，正如第1.21段所述，鄭議員不選擇研訊公開舉行，並表示不會出席調查委員會的研訊)；(b)等待第1.11段所述的兩位證人，就上述有關鄭議員的案件出庭作證後，才到調查委員會席前作證；及(c)等待法庭就上述案件作出判決後，調查委員會才就譴責議案所述的事宜作出結論。” be added to paragraph 1.12 and corresponding textual amendments be made; and

- (c) paragraph 1.12 be separated into two paragraphs with the following sentence added to the end of the new paragraph 1.13:

“調查委員會亦察悉，鄭議員並沒有就定罪及判刑提出上訴，因此調查委員會決定繼續向個別證人取證、就譴責議案進行商議，並向立法會提交報告。”)

### *Chapter 3*

3. Members agreed that textual amendments be made to paragraphs 3.1 to 3.14.
4. Paragraph 3.15 read and agreed to with the following sentence deleted:

“據李先生表示，他步離鄭議員前，鄭議員對他說了一些話：  
‘……我只說了一句“鄭先生”，接着鄭議員便很大聲說：“你看看他們做得對不對這樣子？”。當然，我沒有回答他的問題。其實他這是一個陳述，即是一個陳述……所以他多說了一兩句後我便離開……。”

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5. Members agreed that textual amendments be made to paragraphs 3.16 to 3.20.

6. Members agreed that the following footnote be added to paragraph 3.21:

“根據《行事方式及程序》第33段，調查委員會秘書曾於2018年3月2日致函邀請許智峯議員簽署保密承諾書(附錄3.13)，並告知他待調查委員會收到他簽署的承諾書後，便會把本報告載述用以確立譴責議案所述事實的證據的有關部分(即第3.21段)，送交他置評。然而，由於許議員回覆不會簽署承諾書，調查委員會秘書已書面告知他，不會把上述的有關部分送交他置評(附錄3.14)。因此，第3.21段的內容未獲許議員置評。”

*(Post-meeting note :* With the Chairman’s concurrence, letters were issued to Hon HUI Chi-fung on 15 and 23 March 2018 regarding his responses relating to the verbatim transcript of the proceedings of the hearing containing the evidence given by him on 3 July 2017 (LC Paper Nos. CB(3) 428/17-18 and CB(3) 462/17-18). The Chairman suggested and members agreed that the following footnote be added to paragraph 3.21:

“根據調查委員會《行事方式及程序》第22段，調查委員會秘書曾於2017年8月10日致函許智峯議員，將他於2017年7月3日出席閉門研訊所提證據相關部分的逐字紀錄本擬稿送交他審閱及核正。至2017年10月16日，許議員透過電話向調查委員會助理秘書口頭確認，對該逐字紀錄本擬稿沒有意見，調查委員會助理秘書就此備存書面紀錄。2018年3月15日，調查委員會秘書致函告知許議員，調查委員會已決定將該逐字紀錄本

(附錄 3.3)納入調查委員會報告的附錄。許議員翌日來函表示，他從來沒有口頭或書面表示對該逐字紀錄本沒有意見。許議員與調查委員會秘書就有關事宜的函件往來，請參閱**附錄3.12**。”)

7. Members noted that paragraphs 3.28, 3.29, 3.30 and 3.32 set out the information collated by IC on Dr Hon CHENG Chung-tai (“Dr CHENG”)’s responses to media enquiries about his acts of inverting the mock-ups of the national flag and regional flag and his relevant remarks posted on his Facebook page after the Council meeting of 19 October 2016 (“the said Council meeting”). Members agreed that as such information was neither evidence provided by Dr CHENG nor official records of the Legislative Council (“LegCo”), IC would not take it into account when considering whether the facts stated in the censure motion were established and whether the facts as established constituted grounds for the censure of Dr CHENG. Members agreed that the above-mentioned paragraphs be deleted but such information be set out in appendices to IC’s Report, with a view to providing a full picture of Dr CHENG’s alleged misbehaviour as particularized in the Schedule to the censure motion.

*(Post-meeting note :* The Chairman suggested and members agreed that the above-mentioned information regarding Dr CHENG’s responses to media enquiries about his acts of inverting the mock-ups of the national flag and regional flag and his relevant remarks posted on his Facebook page would not be included in the Report. Accordingly, paragraph 3.33 of the second revised draft Report was also deleted.)

#### *Chapter 4*

8. Members agreed that textual amendment be made to paragraph 4.1.

9. When considering paragraph 4.2, some members pointed out that in addition to Members of the Democratic Alliance for the Betterment and Progress of Hong Kong (“DAB”), some other Members also placed the mock-ups of the national flag and regional flag on their desks at the said Council meeting and such mock-ups were inverted by Dr CHENG thereat, but only DAB Members were referred to in the censure motion. It was proposed that

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the term “民建聯議員” referred to in the facts to be established in Chapter 4 of the second revised draft Report be replaced by “部分議員” so as to accurately reflect what happened at the said Council meeting. As members had diverse views on the proposal, the Chairman put it to vote. Members requested a division. Three members (i.e. Dr Hon Elizabeth QUAT, Mr CHAN Chun-ying and Mr CHEUNG Kwok-kwan) voted in favour of the proposal, while one member (i.e. the Deputy Chairman) voted against. The Chairman declared that the proposal was carried.

10. Paragraphs 4.3 to 4.18 read, textually amended and agreed to. Members also agreed that:

- (a) after the first fact stated in the censure motion had been established in Chapter 4, the abbreviation “展示品” be substituted by “國旗及區旗” in the rest of Chapter 4; and
- (b) the names of the Members placing the mock-ups of the national flag and regional flag which had been inverted by Dr CHENG be specified in the footnotes to be added to paragraphs 4.15 and 4.16.

11. Paragraph 4.19 read and agreed to.

12. Members agreed that with reference to the Official Record of Proceedings of the said Council meeting, paragraphs 4.20 and 4.21 be amended to state that the requests or order made by the President concerned Dr CHENG’s conduct of leaving his seat at will and going to the seats of other Members to cause a disturbance.

13. Paragraphs 4.22 to 4.28 read, textually amended and agreed to.

14. Members agreed that paragraph 4.29 be deleted.

15. Paragraphs 4.30 (renumbered as 4.29) to 4.35 (renumbered as 4.34) read, textually amended and agreed to.

*(Post-meeting note :* Hon CHAN Chun-ying proposed, and the Chairman and other members agreed that the following sentence in paragraph 4.34 be deleted: “調查委員會注意到，近年香港越來越多人對中華人民共和國是香港特區的主權國及香港特區是中華人民共和國不可分離的部分並不尊重，甚或懷有敵意。”)*)*



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16. Members agreed that paragraph 4.36 be deleted.

17. Members agreed that paragraph 4.37 (renumbered as 4.35) be amended to specify that despite the court's judgment on the case of *HKSAR v CHENG Chung-tai*, IC would, based on the facts established, make its own judgment on whether Dr CHENG's conduct constituted "breach of oath" and/or "misbehaviour" under Article 79(7) of the Basic Law.

*(Post-meeting note :* Hon CHAN Chun-ying proposed, and the Chairman and other members agreed that the term "考慮" in paragraph 4.35 be substituted by "認定".)

18. Paragraph 4.38 (renumbered as 4.36) read and agreed to. Members also agreed that the following footnote be added to paragraph 4.36 (renumbered as 4.37):

“第1章第1.14段，即被指的作為或不作為愈嚴重，它便必須被視為本來就愈不可能發生；在這情況下，如要按可能性衡量證明有關指控屬實，便要提出更令人信服的證據。”

19. Paragraphs 4.39 to 4.49 (renumbered as 4.38 to 4.48) read and agreed to.

*(Post-meeting note :* Members agreed that the sentence “截至本報告發表時，他從未就其行為表示任何悔意或歉疚，這從他在2016年11月25日內會會議上作出的言論、登載於其面書專頁的言論及媒體報道他的言論，可茲證明；” in paragraph 4.47(d) (renumbered as 4.46(d)) be amended as “截至本報告發表時，他並無就有關行為公開道歉；”。)

20. Members agreed that in view of the amendments to the various paragraphs in Chapter 4 of the second revised draft Report, the Clerk might make the necessary consequential amendments where appropriate.

Clerk 21. The Chairman advised that IC had completed the deliberations on the Chinese text of the second revised draft Report paragraph by paragraph. Members agreed that subject to the Chairman's concurrence and where necessary, the Clerk might make textual and editorial amendments to the second revised draft Report.

Action

*(Post-meeting note :* With the concurrence of the Chairman, the Chinese version of the third revised draft Report was issued to members for consideration on 23 March 2018.)

Comment by Dr CHENG and witnesses

Clerk 22. Members agreed that in accordance with paragraph 25 of IC's Practice and Procedure, Dr CHENG and the following four witnesses would be provided with the relevant parts of the draft Report, which set out the evidence on the basis of which IC had established the facts stated in the censure motion, for comment and they would be given 10 calendar days to provide their comments:

- (a) Dr Hon CHIANG Lai-wan;
- (b) Hon LAU Kwok-fan;
- (c) Mr Alfred LEE (steward of the LegCo Secretariat ); and
- (d) Mr Tommy LEE (steward of the LegCo Secretariat).

*(Post-meeting note :* The above four witnesses and Dr CHENG were provided with the Chinese version of the relevant parts of the draft Report on 15 and 22 March 2018 respectively for their comment.)

**II. Any other business**

23. The Chairman said that subject to the comments of Dr CHENG and the four witnesses on the draft Report, she would decide whether to call a meeting to discuss those comments. If she considered it not necessary to do so, she would instruct the Clerk to finalize both the Chinese and English versions of the draft Report and circulate them to members for final endorsement. Subject to the progress of work, the endorsed Report might be tabled at the Council meeting of 11 April 2018 at the earliest.

*(Post-meeting note :* No comments were received from Dr CHENG and the four witnesses by the relevant deadlines (LC Paper No. CB(3) 474/17-18 issued on 29 Mar 2018).

Hon CHAN Chun-ying proposed and the Chairman and members agreed that the following textual amendments be made to the Executive Summary of the Chinese version of IC's Report:

Action

- (a) “第” be added before “3章” in paragraph 2; and
- (b) “仍屢次” be substituted by “一而再” in paragraph 9.

Members endorsed the final version of IC’s Report (in both Chinese and English) on 9 April 2018 (LC Paper Nos. CB(3) 486/17-18 and CB(3) 491/17-18 issued on 4 and 6 April 2018.)

24. There being no other business, the meeting ended at 4:36 pm.

Council Business Division 3  
Legislative Council Secretariat  
6 April 2018