

立法會
Legislative Council

LC Paper No. CB(1)833/19-20
(These minutes have been cleared
with the Chairman)

Ref : CB1/IC/16

**Investigation Committee
established under Rule 49B(2A) of the Rules of Procedure
in respect of the motion to censure Hon Holden CHOW Ho-ding**

**Extract from the minutes of the eighth closed meeting
which contains the proceedings on consideration of the report of
the Investigation Committee held on Tuesday, 23 June 2020, at 2:30 pm
in Conference Room 4 of the Legislative Council Complex**

Members present : Hon Abraham SHEK Lai-him, GBS, JP (Chairman)
Hon Martin LIAO Cheung-kong, GBS, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon WONG Ting-kwong, GBS, JP
Hon Jimmy NG Wing-ka, BBS, JP
Hon LUK Chung-hung, JP

Member absent : Hon Dennis KWOK Wing-hang

Clerk in attendance : Mr Desmond LAM
Chief Council Secretary (1)3

Staff in attendance : Mr YICK Wing-kin
Legal Adviser to the Investigation Committee/
Senior Assistant Legal Adviser 2

Mr Bonny LOO
Senior Assistant Legal Adviser 3

Ms Anita SIT
Assistant Secretary General 1

Ms Connie HO
Senior Council Secretary (1)3

Mr Terence LAM
Council Secretary (1)3

Ms Alice CHEUNG
Senior Legislative Assistant (1)1

Ms May LEUNG
Legislative Assistant (1)3

Action

Consideration of reports in accordance with Rule 73A(10) of the Rules of Procedure

(LC Paper Nos. CB(1)690/19-20(01)-(05) -- Chairman's report

LC Paper No. CB(1)321/19-20(01) -- Hon Dennis KWOK's report)

The Chairman informed members that he and Mr Dennis KWOK ("Mr KWOK") had, in accordance with Rule 73A(10)(a) of the Rules of Procedure ("RoP"), respectively brought a report to the Investigation Committee ("IC") for consideration. The Clerk briefly introduced the Chairman's report to IC on the Chairman's behalf, which comprised the following chapters:

- (a) Chapter 1: introducing the background of the censure motion and setting out major issues relating to the establishment and operation of IC;
- (b) Chapter 2: elaborating on the constitutional and statutory requirements relating to the censure motion, and providing reference information on overseas parliamentary rules and practices relating to Members' communications with witnesses and the act of deliberately misleading the House or a committee;
- (c) Chapter 3: presenting the evidence and information relevant to the particulars of Mr Holden CHOW Ho-ding ("Mr CHOW")'s alleged misbehaviour and breach of oath as stated in the Schedule to the censure motion; and
- (d) Chapter 4: reporting on IC's consideration of whether the alleged facts as stated in the Schedule to the censure motion could be established and setting out IC's views on whether or not any facts as established constituted grounds for the censure of Mr CHOW.

2. Given that Mr KWOK was not present at the meeting, the Chairman invited the Clerk to briefly introduce Mr KWOK's report to IC.
3. In accordance with RoP 73A(10)(a), the Chairman proposed the two reports in order until one was accepted as a basis for IC's discussion, beginning with his own report and then proceeding to Mr KWOK's report. The Chairman put the question "that the Chairman's report be read a second time paragraph by paragraph." to vote. As three members (i.e. Mr Martin LIAO, Mr WONG Ting-kwong and Mr LUK Chung-hung) voted for and one member (i.e. Mr James TO) voted against the question, the question was agreed to. Given that IC had agreed that the Chairman's report be adopted as a basis for discussion, i.e. as the draft IC's report, the Chairman had not proposed any further question on Mr KWOK's report.
4. In response to Mr WONG Ting-kwong's enquiry, the Clerk clarified that as provided under RoP 73A(10)(a), while IC had adopted the Chairman's report as the basis for discussion, portions of Mr KWOK's report, if relevant, might be offered as amendments to the draft IC's report.

Consideration of the draft IC's report

5. Members agreed to consider in parallel the English and Chinese versions of the draft IC's report paragraph by paragraph. The Clerk took members through the draft report paragraph by paragraph.

Chapter 1

6. Paragraphs 1.1 to 1.2 read and agreed to.
7. Paragraphs 1.3 to 1.8 read and agreed to.
8. Paragraph 1.9 read and agreed to.
9. Paragraphs 1.10 to 1.13 read and agreed to.
10. Paragraph 1.14 read and agreed to.
11. Paragraph 1.15 read and agreed to.
12. Paragraphs 1.16 to 1.18 read and agreed to.
13. Paragraphs 1.19 to 1.22 read and agreed to.
14. Paragraphs 1.23 to 1.26 read and agreed to.

15. Paragraphs 1.27 and 1.28 read and agreed to. Members noted that the number of closed meetings held by IC as described under paragraph 1.28 would be updated in due course.

16. Paragraph 1.29 read and agreed to. Members noted that whether Mr CHOW and the witnesses concerned would, in accordance with paragraph 25 of the IC's Practice and Procedure, provide comments on the relevant parts of Chapter 3 would be updated in due course.

17. Paragraphs 1.30 to 1.33 read and agreed to. Members noted that the relevant parts of paragraphs 1.31 and 1.32, i.e IC's consideration of the Chairman's report and Mr KWOK's report would be updated in due course.

Chapter 2

18. Paragraphs 2.1 and 2.2 read and agreed to.

19. Paragraph 2.3 read and agreed to.

20. Paragraphs 2.4 to 2.6 read and agreed to.

21. Paragraphs 2.7 and 2.8 read and agreed to.

22. Paragraphs 2.9 to 2.12 read and agreed to.

23. Paragraphs 2.13 to 2.15 read and agreed to.

24. Paragraphs 2.16 to 2.18 read and agreed to.

25. Paragraphs 2.19 and 2.20 read and agreed to.

26. Paragraphs 2.21 and 2.22 read and agreed to.

27. Paragraphs 2.23 to 2.29 read and agreed to.

Chapter 3

28. Paragraphs 3.1 to 3.4 read and agreed to.

29. Paragraphs 3.5 and 3.6 read and agreed to.

30. Paragraphs 3.7 to 3.9 read and agreed to.

31. Paragraphs 3.10 to 3.13 read and agreed to.
32. Paragraphs 3.14 and 3.15 read and agreed to.
33. Regarding paragraph 3.15, the Clerk informed members that taking into consideration the Select Committee to Inquire into Matters about the Agreement between Mr LEUNG Chun-ying and the Australian firm UGL Limited ("Select Committee")'s decision (as previously announced by the Chairman of the Select Committee) that the confidentiality in respect of the deliberations made at the Select Committee's closed meetings would not be waived, the shaded parts of written statements (Appendices 1.7 to 1.9 referred) and verbatim transcripts (Appendices 3.6 to 3.8 referred) appended to the draft IC's report which apparently contained information relating to closed-door deliberations of the Select Committee would be redacted if agreed by IC. Members were invited to consider whether they wished to include any such information in the IC's report by relying on sections 3 and 4 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).
34. Mr James TO said that information relating to the closed-door deliberations of the Select Committee might be made public following the tabling of its report to the Council. If that was the case and if the report of the Select Committee was tabled in the Council before that of IC, it would not be necessary for IC to redact such information. Mr TO suggested that IC enquire with the Select Committee about the date of the tabling of its report to the Council. The Deputy Chairman said that such confidential information in question should only be included in IC's report if the Select Committee had given express consent for IC to do so or if the Select Committee's report contained such information and the report was published before that of IC. As the Select Committee had already decided not to waive the confidentiality relating to the deliberations made at its closed meetings, IC should redact the relevant information from the written statements and verbatim transcripts concerned appended to the report unless the Select Committee's report with such confidential information was tabled in the Council and thus published before IC finalized its report. Members agreed.
35. Paragraphs 3.16 to 3.18 read and agreed to.
36. Paragraphs 3.19 and 3.20 read and agreed to.
37. Paragraphs 3.21 to 3.23 read and agreed to.
38. Paragraphs 3.24 to 3.27 read and agreed to.
39. Paragraph 3.28 read and agreed to.
40. Paragraphs 3.29 to 3.32 read and agreed to.

41. Paragraphs 3.33 to 3.35 read and agreed to.
42. Paragraphs 3.36 to 3.38 read and agreed to.
43. Paragraphs 3.39 to 3.42 read and agreed to.
44. Paragraph 3.43 read and agreed to. Members noted that the relevant part of the paragraph, i.e. whether Mr CHOW would provide comments on the statements issued by the Independent Commission Against Corruption and the Department of Justice, would be updated in due course.

Chapter 4

45. Mr James TO said that he disagreed to the findings and the considerations based on which the alleged facts were assessed as set out in Chapter 4 of the draft IC's report. Noting Mr TO's disagreement to Chapter 4 of the draft IC's report, the Chairman advised that IC should continue to go through Chapter 4 paragraph by paragraph.

46. Paragraphs 4.1 and 4.2 read and agreed to.

First Fact to be established

47. Paragraphs 4.3 to 4.5 read and agreed to.
48. Paragraphs 4.6 to 4.12 read and agreed to.
49. Paragraph 4.13 read and agreed to.
50. Paragraphs 4.14 and 4.15 read and agreed to.

Second Fact to be established

51. Paragraphs 4.16 to 4.19 read and agreed to.
52. Paragraphs 4.20 and 4.21 read and agreed to.
53. Paragraphs 4.22 and 4.23 read and agreed to.
54. Paragraphs 4.24 and 4.25 read and agreed to.

Third Fact to be established

55. Paragraph 4.26 read and agreed to.
56. Paragraphs 4.27 to 4.29 read and agreed to.
57. Paragraphs 4.30 and 4.31 read and agreed to.
58. Paragraph 4.32 read and agreed to.
59. Paragraph 4.33 read and agreed to.

Fourth Fact to be established

60. Paragraph 4.34 read and agreed to.
61. Paragraph 4.35 read and agreed to.
62. Paragraphs 4.36 and 4.37 read and agreed to.
63. Paragraphs 4.38 and 4.39 read and agreed to.

IC's views on whether the facts as established constitute grounds for the censure of Mr CHOW

64. Paragraph 4.40 read and agreed to.
65. Paragraphs 4.41 to 4.43 read and agreed to.
66. Paragraphs 4.44 and 4.45 read and agreed to.

First allegation - whether Mr CHOW's behaviours as set out in the First and Third partially-established Facts were in breach of the LegCo Oath

67. Paragraphs 4.46 to 4.48 read and agreed to.

Second allegation - whether Mr CHOW's behaviours as set out in the First and Third partially-established Facts constitute "misbehaviour" under BL 79(7)

68. Paragraph 4.49 read and agreed to.
69. Paragraphs 4.50 and 4.51 read and agreed to.
70. Paragraph 4.52 read and agreed to.

Whether the facts as established constitute grounds for the censure of Mr CHOW

71. Paragraph 4.53 read and agreed to.

72. IC had completed the consideration of the draft IC's report paragraph by paragraph at the meeting. The Chairman remarked that all members present at the meeting except Mr James TO agreed to the findings and views set out in the draft IC's report. The Chairman then put to vote the question that "this report be the report of the committee to the Council" in accordance with RoP 73A(10)(b). As three members (i.e. Mr Martin LIAO, Mr WONG Ting-kwong and Mr LUK Chung-hung) voted for and one member (i.e. Mr James TO) voted against the question, the question was agreed to.

73. The Chairman advised members that subject to his concurrence and where necessary, the Clerk would make textual and editorial amendments to the IC's report. The updated/revised parts would be circulated to members for reference and confirmation in due course.

(Post-meeting note: The updated/revised parts of the IC's report (in both Chinese and English) were circulated to members on 30 June 2020 (LC Paper No. CB(1)827/19-20). As no comments had been received from members by the deadline of reply by noon on Thursday, 2 July 2020, the relevant updated/revised parts of the IC's report were taken as confirmed by IC.)

Comments of Mr CHOW and other witnesses concerned on the relevant parts of the IC's report (Chapter 3)

74. At the invitation of the Chairman, the Clerk informed members that he would, in accordance with paragraph 25 of the IC's Practice and Procedure, forward the relevant parts of Chapter 3 of the IC's report which set out the evidence on the basis of which IC had established the facts stated in the censure motion, to Mr CHOW and the witnesses concerned (i.e. Ms Claudia MO, Mr CHU Hoi-dick, Mr Kenneth LEUNG, Mr Alvin YEUNG, Mr Andrew WAN Siu-kin and Mr LAM Cheuk-ting) for comment.

75. The Clerk advised that Mr CHOW and the witnesses concerned would be requested to sign the relevant undertakings before receiving the relevant parts of Chapter 3 for comment, and they would be requested to return their comments (if any) to the Clerk on or before noon on Friday, 26 June 2020. The Chairman said that he would decide whether to convene a meeting to consider the comments (if any) made by Mr CHOW and the witnesses concerned.

(Post-meeting note: Mr CHOW and the witnesses concerned were provided with the Chinese version of the relevant parts of the IC's report (Chapter 3) for their comment on 24 June 2020. Mr CHOW and the witnesses concerned had respectively replied that they had no comments on the relevant parts of Chapter 3 of the IC's report (LC Paper No. CB(1)827/19-20).)

Any other business

Tabling of the IC's report at the Council meeting

76. The Chairman advised that IC would table its report at the Council meeting of 8 July 2020. In accordance with RoP 40(6A) and subject to the permission of the President, the resumption of the debate in respect of the motion to censure Mr CHOW would be included in the Agenda for the Council meeting of 15 July 2020.

77. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 1
Legislative Council Secretariat
2 July 2020