

機 密 CONFIDENTIAL

立法會

Legislative Council

LC Paper No. CB(2)1568/16-17
(These minutes have been cleared
with the Chairman)

Ref : CB2/SC/16

**Select Committee to Inquire into Matters about the Agreement
between Mr LEUNG Chun-ying and the Australian firm UGL Limited**

**Minutes of meeting
held on Tuesday, 25 April 2017, at 5:00 pm
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon Paul TSE Wai-chun, JP (Chairman)
Hon Holden CHOW Ho-ding (Deputy Chairman)
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon MA Fung-kwok, SBS, JP
Hon Kenneth LEUNG
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon YUNG Hoi-yan
- Member absent** : Hon WONG Kwok-kin, SBS, JP
- Clerk in attendance** : Miss Josephine SO
Chief Council Secretary (2) 2
- Staff in attendance** : Miss Flora TAI
Assistant Secretary General 2

Mr Timothy TSO
Senior Assistant Legal Adviser 1

Miss Joyce CHAN
Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2) 7

Miss Michelle TANG
Council Secretary (2) 2

Miss Emma CHEUNG
Legislative Assistant (2) 2

Miss Cally LAI
Legislative Assistant (2) 10

Action

I. Proposed major areas of study
(LC Paper No. CB(2)1078/16-17(01))

The Select Committee deliberated (index of proceedings attached at **Annex**).

2. Members considered the amendments proposed by Mr Holden CHOW to the Chinese text of the proposed major areas of study of the Select Committee drawn up by the Secretariat, which were tabled at the meeting.

(Post-meeting note: The proposed amendments provided by Mr Holden CHOW, which were tabled and considered at the meeting, were issued to members vide LC Paper No. CB(2)1285/16-17 on 26 April 2017)

3. Members noted the suggestions of Mr Holden CHOW to amend items I(d) and I(e) of the proposed major areas of study (Appendix to LC Paper No. CB(2)1078/16-17(01)) as follows:

- (a) in relation to item I(d), inserting "背景、原意、" before "性質及效力"; and
- (b) in relation to item I(e), subject to further revision where necessary, amending it to read "在該協議文本中，上文(d)段所述條款曾否作出修改.....若有，由誰人作出，該修改的原意和作用，以及條款經修改後的效力。".

4. Members also discussed Mr Holden CHOW's proposed amendment which sought to add a new item II(c).

(At the request of Mr Holden CHOW and with the agreement of members, the Chairman ordered that the meeting be suspended for 10 minutes to enable members to discuss the proposal of Mr CHOW to incorporate a new item II(c) into the proposed major areas of study. The meeting was suspended at 5:55 pm and resumed at 6:09 pm. As members could not agree on the amendments, the Chairman further ordered that the meeting be suspended for five more minutes to enable members to further discuss Mr CHOW's proposal. The meeting was suspended at 6:13 pm and resumed at 6:22 pm.)

(The Chairman directed that the meeting be extended for 15 minutes.)

5. As members had divergent views on Mr Holden CHOW's proposal to add a new item II(c), the Chairman suggested putting the matter to vote. However, some members indicated their objection to taking a position on the matter by taking a vote, and the matter could not be dealt with within the 15 minutes of the period of extension of meeting.

6. As some members objected to further extension of the meeting, the meeting ended at 6:45 pm.

**Proceedings of meeting of the
Select Committee to Inquire into Matters about the Agreement
between Mr LEUNG Chun-ying and the Australian firm UGL Limited
on Tuesday, 25 April 2017, at 5:00 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action Required
000232 - 000238	Chairman	Opening remarks	
Proposed major areas of study			
000239 - 000518	Chairman	Recapitulation of previous discussions on the proposed major areas of study at the meetings on 3 and 29 March 2017.	
000519 - 005700	Chairman Dr Junius HO Mr Holden CHOW Mr LAM Cheuk-ting Mr Andrew WAN Mr Kenneth LEUNG Dr Priscilla LEUNG Mr Alvin YEUNG SALA1	<p>Members' expression of views on the amendments proposed by Mr Holden CHOW to the Chinese text of the proposed major areas of study of the Select Committee drawn up by the Secretariat, which were tabled at the meeting.</p> <p>Dr Junius HO's views that:</p> <p>(a) after studying the relevant reference materials referred to in the information note prepared by the Research Office of the Legislative Council Secretariat and reports of previous select committees, and having regard to the fact that the proposed major areas of study were not part of the Select Committee's terms of reference ("TOR"), he had no objection in principle to the Select Committee's adoption of certain major areas of study; and</p> <p>(b) the amendments proposed by Mr Holden CHOW to the proposed major areas of study were logical and within the scope of the Select Committee's TOR.</p> <p>Mr Holden CHOW's views that:</p> <p>(a) there was a need to inquire into the media release "Response to media speculation" issued by UGL Limited on 9 October 2014 ("the media release"), including the authenticity and credibility of the media release; and</p> <p>(b) there was a need to inquire into the legislative intent behind the requirement</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
		<p>under Article 47 of the Basic Law ("BL47") to declare assets.</p> <p>Mr Andrew WAN's views that:</p> <ul style="list-style-type: none">(a) he could not see any correlation between the media release and the Select Committee's TOR;(b) the proposed amendments to item I(a) were outside the scope of the Select Committee's TOR; and(c) it was unnecessary for the Select Committee to inquire into the legislative intent behind BL47. <p>Mr Kenneth LEUNG objected to the amendments proposed by Mr Holden CHOW, in particular, the proposed new item I(f) and the amendments to item III(c). His view that Mr CHOW should explain which of his proposed amendments were strictly necessary.</p> <p>Mr LAM Cheuk-ting's views that:</p> <ul style="list-style-type: none">(a) Mr Holden CHOW should explain the need for each of his proposed amendments to the proposed major areas of study;(b) he was more inclined to adopting the amended version of the proposed major areas of study, as prepared by the Secretariat and set out in Appendix to LC Paper No. CB(2)1078/16-17(01), without further amendments;(c) it was unnecessary for the Select Committee to inquire into the nature of the agreement entered into between Mr LEUNG Chun-ying and UGL Limited in 2011 ("the UGL Agreement"); and(d) the proposed insertion of the phrase "全部或部份" in item III(a) was unnecessary. <p>Dr Priscilla LEUNG's views that:</p> <ul style="list-style-type: none">(a) there was a need to inquire into the media release in the Select Committee's course of	

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		<p>inquiry; and</p> <p>(b) the examination of the legislative intent behind the requirement to declare assets under BL47 was relevant to the Select Committee's inquiry.</p> <p>Mr Alvin YEUNG's view that the amendments proposed by Mr Holden CHOW to item I(a) would divert the focus of the Select Committee's investigation of the UGL Agreement to the purported UGL Agreement published by an Australian media organization ("the purported UGL Agreement").</p> <p>Chairman's views that:</p> <p>(a) regarding Mr Holden CHOW's proposed amendments to item I(a), it was unnecessary to study the completeness and authenticity of the purported UGL Agreement;</p> <p>(b) regarding the proposed new item I(f), the authenticity and credibility of the media release was outside the scope of the Select Committee's TOR, although the media release might be one of the documents relevant to the Select Committee's inquiry;</p> <p>(c) there would not be a need for the Select Committee to inquire into the legislative intent behind the requirement under BL47 to declare assets, unless there was ambiguity or uncertainty in the meaning of the provision. Consideration could be given to deleting the proposed sentence "《基本法》第四十七條要求行政長官就任時申報財產的原意" in the proposed new item II(c);</p> <p>(d) the list of information to be obtained was amongst matters to be considered by the Select Committee at a future meeting; and</p> <p>(e) consideration could be given to deleting "在澳洲傳媒公開的" in Mr CHOW's proposed amendments to item I(e).</p> <p>SALA1's views that:</p>	

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		<p>(a) while there was a need to inquire into the requirements under BL47 when examining whether Mr LEUNG Chun-ying had complied with BL47, there might not be a need to inquire into the legislative intent behind BL47 at this stage if the meaning of BL47 was clear;</p> <p>(b) the authenticity of the media release might be outside the scope of the Select Committee's inquiry; and</p> <p>(c) it was unnecessary to inquire into the authenticity of the purported UGL Agreement. In the course of the Select Committee's inquiry, it would be necessary to examine whether or not there was such an agreement between Mr LEUNG and UGL Limited and if so, to obtain a copy of the signed agreement from the relevant parties.</p> <p>Mr Holden CHOW's request and members' agreement that the meeting be suspended for 10 minutes to enable members to discuss the proposal of Mr CHOW to incorporate a new item II(c) into the proposed major areas of study.</p>	
Break			
010957 - 011457	Chairman Mr Holden CHOW SALA1	<p>Mr Holden CHOW's suggestion that his proposed amendments to items I(d), I(e) and the proposed new item II(c) should be adopted. His understanding that issues covered by and relating to his other proposed amendments could alternatively be incorporated into the line of questioning by the Select Committee in its inquiry.</p> <p>SALA1's explanation that even without the proposed new item II(c), an inquiry into the legislative intent behind BL47 might be required if the meaning of BL47 was found to be unclear during the Select Committee's inquiry. If the proposed new item II(c) was adopted at this stage, the Select Committee would have to examine the legislative intent behind BL47, regardless of whether the meaning of BL47 was clear.</p> <p>Chairman's suggestion and Mr Holden CHOW's</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
		agreement to delete "在澳洲傳媒公開的" in Mr CHOW's proposed amendments to item I(e).	
Break			
012402 - 012440	Chairman	Extension of meeting by 15 minutes.	
012441 - 014809	Chairman Mr Holden CHOW Mr LAM Cheuk-ting Dr Priscilla LEUNG Mr Alvin YEUNG Mr Kenneth LEUNG Mr Andrew WAN Dr Junius HO SALA1	<p>Mr Holden CHOW reiterated his stance that his proposed amendments to items I(d), I(e) and the proposed new item II(c) should be adopted.</p> <p>SALA1's view that Mr Holden CHOW's proposed amendments to item I(e) could be amended along the line of "在該協議文本中，上文(d) 段所述條款曾否作出修改.....由誰人作出，該修改的原意和作用，以及條款經修改後的效力。". The Chinese translation of the handwritten phrase (which was originally in English) as quoted in the proposed amendments to item I(e) might also need to be further revised.</p> <p>Members noted the suggestions of Mr Holden CHOW to amend items I(d) and I(e) of the proposed major areas of study (Appendix to LC Paper No. CB(2)1078/16-17 (01)) as follows:</p> <p>(a) in relation to item I(d), inserting "背景、原意、" before "性質及效力"; and</p> <p>(b) in relation to item I(e), subject to further revision where necessary, amending it to read "在該協議文本中，上文(d) 段所述條款曾否作出修改.....若有，由誰人作出，該修改的原意和作用，以及條款經修改後的效力。".</p> <p>Views of the Chairman, Mr Holden CHOW, Mr LAM Cheuk-ting, Dr Priscilla LEUNG, Mr Alvin YEUNG, Mr Kenneth LEUNG, Mr Andrew WAN and Dr Junius HO regarding:</p> <p>(a) whether "原意" in the proposed new item II(c) should be amended as "原意/釋義"; and</p> <p>(b) the application of <i>Pepper v Hart [1992]3 WLR 1032</i> in statutory interpretation.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
		<p>As members had divergent views on Mr Holden CHOW's proposal to add a new item II(c), the Chairman suggested putting the matter to vote. However, some members indicated their objection to taking a position on the matter by taking a vote, and the matter could not be dealt with within the 15 minutes of the period of extension of meeting.</p> <p>Chairman's suggestion to further extend the meeting by 15 minutes and opposition by some members to the proposed further extension.</p> <p>Closing of the meeting.</p>	

Council Business Division 2
Legislative Council Secretariat
6 June 2017