

立法會
Legislative Council

LC Paper No. CB(2)2152/16-17
(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 Wednesday, 12 July 2017, at 8:45 am
in Conference Room 2B of the Legislative Council Complex**

- Members present** : Hon Paul TSE Wai-chun, JP (Chairman)
Hon MA Fung-kwok, SBS, JP (Deputy Chairman)
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Steven HO Chun-yin, BBS
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
- 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

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Mr Raymond LAM
Senior Council Secretary (2) 7

Miss Michelle TANG
Council Secretary (2) 2

Miss Cally LAI
Legislative Assistant (2) 2

Action

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

2. Mr Kenneth LEUNG declared that Mr LEUNG Chun-ying had brought a defamation claim (HCA533/2017) against him.

3. Mr LAM Cheuk-ting declared that he had lodged a complaint with the Independent Commission Against Corruption in relation to the agreement between Mr LEUNG Chun-ying and UGL Limited.

I. Request for Hon Kenneth LEUNG to resign from the Select Committee
(LC Paper Nos. CB(2)1458/16-17(02) and CB(2)1487/16-17(01))

4. Members discussed Mr WONG Kwok-kin's request for Mr Kenneth LEUNG to resign from the Select Committee.

5. Mr WONG Kwok-kin moved the following motion:

(議案中文措辭)

"為免影響本專責委員會的公信力，本人建議專責委員會要求梁繼昌議員辭任專責委員會委員。"

(English translation of the motion)

"In order to prevent the credibility of this Select Committee from being affected, I propose that the Select Committee should request Mr Kenneth LEUNG to resign from the Select Committee."

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6. The Chairman put Mr WONG Kwok-kin's motion to vote. The Deputy Chairman requested a division.

The following members voted in favour of the motion:

Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr MA Fung-kwok, Mr Steven HO, Dr Junius HO and Ms YUNG Hoi-yan. (six members)

The following members voted against the motion:

Mr Kenneth LEUNG, Mr Alvin YEUNG, Mr Andrew WAN and Mr LAM Cheuk-ting. (four members)

7. The Chairman declared that six members voted in favour of the motion and four members voted against it. He declared that the motion was carried.

II. Proposed major areas of study

(LC Paper Nos. CB(2)1078/16-17(01) and CB(2)1454/16-17(01))

8. Members noted that the proposed major areas of study of the Select Committee (Appendix to LC Paper No. CB(2)904/16-17(03)) ("1 March version") prepared by the Legislative Council ("LegCo") Secretariat had been discussed at the meeting on 3 March 2017 and revised in the light of the comments made by members at that meeting. The revised version prepared by the LegCo Secretariat (Appendix to LC Paper No. CB(2)1078/16-17(01)) ("27 March version") had been discussed at the Select Committee meetings on 29 March and 25 April 2017.

(At 10:29 am, the Chairman ordered that the meeting be suspended for members to study the differences between the "1 March version" and the "27 March version". The meeting resumed at 10:34 am.)

9. Mr LAM Cheuk-ting and Mr Andrew WAN held the view that the "1 March version" should be adopted as the Select Committee's major areas of study. Mr WONG Kwok-kin, Dr Priscilla LEUNG and Dr Junius HO however considered it more appropriate to adopt the "27 March version".

(The Chairman directed that the meeting be extended for 10 minutes.)

10. The Chairman put to vote the question of whether the "1 March version" or the "27 March version" should be adopted as the Select

Action

Committee's major areas of study. Mr LAM Cheuk-ting requested a division.

The following members voted in favour of the "1 March version":

Mr Kenneth LEUNG, Mr Alvin YEUNG, Mr Andrew WAN and Mr LAM Cheuk-ting. (four members)

The following members voted in favour of the "27 March version":

Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr MA Fung-kwok, Dr Junius HO and Ms YUNG Hoi-yan. (five members)

11. The Chairman declared that four members voted in favour of the "1 March version" and five members voted in favour of the "27 March version". He declared that the "27 March version" was adopted as the major areas of study of the Select Committee.

III. Any other business

12. Members agreed that a closed meeting would be held on 17 July 2017 at 2:30 pm to discuss the information to be obtained and witnesses to be invited to assist the Select Committee in its inquiry. Members also agreed that the Secretariat would prepare the draft lists of information to be obtained and witnesses to be invited for members' consideration at the next meeting.

13. There being no other business, the meeting ended at 10:55 am.

**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 Wednesday, 12 July 2017, at 8:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action Required
000551 - 000555	Chairman	Opening remarks	
I. Request for Hon Kenneth LEUNG to resign from the Select Committee			
000556 - 000846	Chairman Mr Kenneth LEUNG	Declaration by Mr Kenneth LEUNG that Mr LEUNG Chun-ying had brought a defamation claim (HCA533/2017) against him.	
000847 - 000859	Chairman Mr LAM Cheuk-ting	Declaration by Mr LAM Cheuk-ting that he had lodged a complaint with the Independent Commission Against Corruption in relation to the agreement between Mr LEUNG Chun-ying and UGL Limited.	
000900 - 013654	Chairman Mr WONG Kwok-kin Dr Junius HO Dr Priscilla LEUNG Mr LAM Cheuk-ting Mr Alvin YEUNG Mr Andrew WAN Mr Steven HO Deputy Chairman Mr Kenneth LEUNG SALA1	Views of Mr WONG Kwok-kin, Dr Junius HO, Dr Priscilla LEUNG, Mr Steven HO and Deputy Chairman that: (a) as there was a pending civil lawsuit between Mr Kenneth LEUNG and Mr LEUNG Chun-ying, there was a possible conflict of interests on the part of Mr Kenneth LEUNG if he continued to be a member of the Select Committee. Mr Kenneth LEUNG should resign from the Select Committee; (b) any damages to be awarded by the court and costs relating to a legal proceeding, the subject matter of which being relevant to a matter under study by a committee of the Council, might constitute pecuniary interests; (c) if Mr Kenneth LEUNG continued to be a member of the Select Committee, the subject of the inquiry might refuse to cooperate on the ground of conflict of interests on the part of a member of the Select Committee; and (d) if Mr Kenneth LEUNG refused to resign, the impartiality of the Select Committee's findings and conclusions might be subject to legal challenge or criticism.	

Time marker	Speaker	Subject(s)/Discussion	Action Required
		<p>Views of Mr LAM Cheuk-ting, Mr Alvin YEUNG, Mr Andrew WAN and Mr Kenneth LEUNG that:</p> <ul style="list-style-type: none"> (a) members of the Select Committee were appointed before Mr LEUNG Chun-ying brought a defamation claim against Mr Kenneth LEUNG; (b) the defamation claim was not related to the subject matter under inquiry; (c) there was no conflict of interests on the part of Mr Kenneth LEUNG; and (d) instead of requesting Mr Kenneth LEUNG to resign from the Select Committee, members could request him to withdraw from the discussion(s) of certain issue(s), in accordance with the practice adopted in cases of direct pecuniary interest, with reference to Rule 84 of the Rules of Procedure. <p>Mr Kenneth LEUNG's remark that he had sought legal advice from a lawyer on 18 May 2017 on the issue of resignation from the Select Committee and had been advised that a resignation might be perceived by the public as a deliberate decision to refrain from doing something in his capacity as a member of the Select Committee in exchange for the discontinuance of the defamation claim (HCA533/2017) against him, which might amount to misconduct in public office.</p> <p>SALA1's response to concerns raised by members:</p> <ul style="list-style-type: none"> (a) on the question of declaration of interests, it had been made clear in a paper issued by the Committee on Members' Interests on 30 November 2012 (LC Paper No. CMI/10/12-13) that it was for individual members to judge whether they had a direct or indirect pecuniary interest in any matter under consideration at a committee meeting; and (b) in the context where the suitability of a judge to adjudicate a case was in dispute 	

Time marker	Speaker	Subject(s)/Discussion	Action Required
		<p>because of allegations of judicial bias, it would be necessary to consider whether there was actual bias or apparent bias. For apparent bias, the relevant test was whether having considered all the relevant circumstances, a fair-minded and informed observer would conclude that there was a real possibility that the tribunal was biased. There was also case law demonstrating that the principle was of general application, not limited to judicial or quasi-judicial proceedings. The rules of fairness or natural justice should not be regarded as rigid; they must alter in accordance with the context. A court had held in a case relating to a town planning board/authority that a member had a duty to act fairly and consider all relevant factors but nevertheless should not be barred from deliberating and deciding on a matter because of his previous expression of views on such matter unless he had a closed mind in the decision-making. How such principles were to be applied would depend on the prevailing circumstances of the case under consideration.</p>	
013655 - 014026	Chairman Deputy Chairman Mr LAM Cheuk-ting	<p>Voting on motion moved by Mr WONG Kwok-kin.</p> <p>Deputy Chairman's query as to whether Mr Kenneth LEUNG should vote on the motion. The Chairman's reply that he had already announced the voting results before the Deputy Chairman raised his query.</p>	
<p>II. Proposed major areas of study</p>			
014027 - 014917	Chairman Mr LAM Cheuk-ting Clerk	<p>Chairman's remark that the issues raised in the letter dated 18 May 2017 from Mr LEUNG Chun-ying had already been covered by the proposed major areas of study prepared by the Legislative Council ("LegCo") Secretariat (Appendix to LC Paper No. CB(2)904/16-17(03)).</p> <p>Mr LAM Cheuk-ting's concerns regarding the differences between the two versions of the proposed major areas of study prepared by the LegCo Secretariat and Clerk's explanation that:</p> <p>(a) the proposed major areas of study</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
		<p>(Appendix to LC Paper No. CB(2)904/16-17(03)) ("1 March version") prepared by the LegCo Secretariat had been discussed at the meeting on 3 March 2017 and revised in the light of the comments made by members at that meeting; and</p> <p>(b) the revised version prepared by the LegCo Secretariat (Appendix to LC Paper No. CB(2)1078/16-17(01)) ("27 March version") had been discussed at the Select Committee meetings on 29 March and 25 April 2017.</p> <p>Suspension of the meeting for members to study the "1 March version" and the "27 March version".</p>	
<i>Break</i>			
015445 - 021343	<p>Chairman Mr WONG Kwok-kin Mr LAM Cheuk-ting Mr Andrew WAN Dr Priscilla LEUNG Dr Junius HO Ms YUNG Hoi-yan Clerk</p>	<p>Views of Mr LAM Cheuk-ting and Mr Andrew WAN that the "1 March version" should be adopted.</p> <p>Views of Mr WONG Kwok-kin, Dr Priscilla LEUNG and Dr Junius HO that the "27 March version" should be adopted.</p> <p>Clerk's explanation that in comparison with the "1 March version", the "27 March version" had incorporated amendments in the light of the following comments expressed by members at the meeting on 3 March 2017:</p> <p>(a) whether or not an agreement signed/executed by both Mr LEUNG Chun-ying and UGL Limited existed in the first place;</p> <p>(b) the order of some items should be rearranged; and</p> <p>(c) a footnote should be inserted to advise that the original text of a sentence quoted was in English and the text in Chinese was a translated version, and that readers should refer to the original English text as it appeared in the copy of the purported agreement between Mr LEUNG and UGL Limited (Appendix II to IN03/16-17) for the authentic version.</p> <p>Extension of meeting time.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
021344 - 021416	Chairman Mr LAM Cheuk-ting	Voting on the question of whether the "1 March version" or the "27 March version" should be adopted as the Select Committee's major areas of study.	
III. Any other business			
021417 - 021433	Chairman	Chairman's remark that Dr Junius HO had given notice of his intention to move the motion in the Annex . Chairman's ruling that as the motion was not directly related to any agenda item, the motion would not be dealt with.	
021434 - 021541	Chairman SALA1	SALA1's remark that consequential revision had to be made to the paper number of the areas of study as appeared in paragraph 11 of the Practice and Procedure of the Select Committee. Date of next meeting.	

本人勸議就本調查委員會的任何閉門會議
各委員必須承諾保守秘密，除非得到本調查
委員會的^{事先}批准。

何君堯

2017年7月12日