

立法會
Legislative Council

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seen by the Administration)

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**Legislative Council
Panel on Constitutional Affairs**

**Minutes of meeting
held on Saturday, 14 October 2000 at 8:45 am
in Chamber of the Legislative Council Building**

Members Present : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon Margaret NG
Hon HUI Cheung-ching
Hon Howard YOUNG, JP
Hon SZETO Wah

Members Absent : Hon James TIEN Pei-chun, JP
Hon CHEUNG Man-kwong
Hon Jasper TSANG Yok-sing, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung

Member Attending : Hon Henry WU King-cheong, BBS

Public Officer Attending : Mr Michael SUEN M Y
Secretary for Constitutional Affairs

Mr Clement MAK
Deputy Secretary for Constitutional Affairs (1)

Mr Robin IP
Deputy Secretary for Constitutional Affairs (2)

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in Attendance : Mrs Eleanor CHOW
Senior Assistant Secretary (2)7

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I. Briefing by the Secretary for Constitutional Affairs on Chief Executive's (CE) Policy Address 2000

Secretary for Constitutional Affairs (SCA) briefed members on the policy objective of the Constitutional Affairs Bureau. A copy of SCA's speech tabled at the meeting is attached in Appendix.

Concluding remark of Policy Address

2. Mr SZETO Wah asked about the meaning of the phrase "cast off our old baggage" referred to in paragraph 128 of the Policy Address. SCA said that he was not involved in the drafting of the relevant paragraphs. However, his personal view was that things would become "old baggage" when they could not move forward with the times. In his concluding remark, CE had said that a few problems would need to be addressed to pursue Hong Kong's development. A new way of thinking was required to meet the challenges that lay ahead. In respect of the policy portfolio for which he was responsible, SCA said that one such example was to examine ways of enhancing co-operation between the executive and the legislature.

Constitutional development

3. Ms Emily LAU expressed disappointment that the Policy Address had not made any concrete proposals to expedite political reform. SCA said that as referred to in the Policy Address, the Basic Law provided the HKSAR with ten years during which its foundation of political structure could be strengthened. There was a need to allow for a period of gestation, to create the appropriate conditions and environment, and to enable views to mature through implementation. He stressed that constitutional development encompassed a wide spectrum of issues. The more important ones had been covered in the Policy Address, e.g improving the relationship between the executive and the legislature and developing a system of accountability for principal officials.

Relationship between the executive and the legislature

4. Miss Margaret NG said that in the past, Panels were consulted on legislative proposals after the relevant bill had been drafted and shortly before its introduction into LegCo. This had resulted in little that the Panels could do but to recommend that the legislative proposals be studied by the bills committees if formed. She suggested that when there was a change in policy or introduction of new policies in future, the Panels concerned should be given the opportunity and sufficient time for substantive discussion before the drafting of the legislative proposals. She also stressed that the Administration should work out a timetable for policy-making process to ensure that there could be no question of time constraint for not being able to conduct consultation with the public and LegCo.

5. In reply, SCA said that the Administration would study with Members how to make better use of the Panels and enhance their roles, to enable the executive authorities and the legislature to discuss policy issues. This would allow the executive authorities to understand fully the standpoints and opinions of Members so that the policies formulated and bills submitted would have the support of the LegCo. In addition, the Administration would endeavour to provide comprehensive papers to Panels well before the meeting to facilitate discussion. He firmly believed that there was scope for better co-operation between the executive and the legislature.

System of accountability

6. Ms Emily LAU said that in the last session, LegCo had supported the Panel's call for implementation of a system to enable principal officials to be politically accountable. She asked how the system of accountability would work in order to implement Articles 64 of the Basic Law (BL 64) under which the executive was accountable to the legislature. Citing the case of Mr Andrew LO who was involved in the "opinion poll incident", she stressed that it was important that principal officials should be accountable to the public and not to CE alone under the new system.

7. Miss Margaret NG suggested that the role and responsibilities of CE under BL 64 should be discussed at a future meeting. The Chairman asked if the new system of accountability should include the CE in addition to the Executive Council and the most senior echelon of the government.

8. SCA said that CE would be personally in charge of the study of the system of accountability for principal officials. The Administration would study in detail how to enhance the accountability of principal officials at Secretaries and Directors of Bureaux rank for their respective policy portfolios. He undertook to convey members' views to the Administration and revert to members after deliberations.

9. The Chairman said that SCA's reply implied that CE, rather than SCA, was responsible for the policy of the new system proposed. Miss Margaret NG asked that in this regard, whether CE was prepared to attend Panel meetings in person to discuss the issue with members. SCA explained that while CE would lead a steering committee to study this issue, various bureaux including the Constitutional Affairs Bureau and Civil Service Bureau would also be involved. It was his understanding that he would appear before the Panel on behalf of the Government when this issue was discussed.

10. Mr SZETO Wah opined that it was unusual to have mentioned that CE was personally involved in this issue. He asked whether the new system would be implemented before or after the next CE election. SCA responded that as head of the Hong Kong Special Administrative Region (HKSAR), CE had ultimate responsibility for the operation of the HKSAR government. Although Bureau Secretaries were the ones to brief LegCo Members on various policies, decisions on the policies were usually made at a higher level. From the viewpoint of the Administration, the CE election had no bearing on the timing of implementation of the system. Any problem identified should be resolved as soon as practicable.

11. In response to Mr Henry WU, SCA said that he was not in a position to give a timetable on when the study would be completed and when the Panel would be briefed on the proposal. The timetable would depend very much on the scope of the study and complexity of the issues involved.

12. Ms Emily LAU informed members that according to paragraph 112 of the Policy Address, a decision would be taken as soon as possible. She said that the Panel should have an internal discussion on how to take the matter forward. She suggested that the Panel should consider conducting a public consultation on the matter with a view to offering views to the Administration. Members agreed that the subject should be discussed at the next meeting.

13. Miss Margaret NG said that the Panel should study the following four areas as raised in paragraph 12 of SCA's speech -

- (a) defining the respective policy portfolios of principal officials at Secretaries and Directors of Bureaux rank;
- (b) setting out their powers and responsibilities;
- (c) defining clearly their role in formulating and implementing government policies under the new system; and
- (d) devising a compatible system of appointment for these principal officials.

In order to ensure that both the Administration and the Panel could work towards a common goal, Miss NG requested the Administration to provide a paper setting out the views of the Administration on the four areas for consideration by the Panel.

14. SCA responded that the Administration welcomed views from Members and the public. He would attend public hearings held by the Panel and give response to issues raised when appropriate. However, Miss NG's request would require careful consideration as the Administration had not formed any mature view on the issue at this stage. Miss NG explained that the Administration was only requested to advise the Panel of the issues which it had identified for study and its preliminary views on the issues. This would enable the Panel to have a better understanding of the complexity of the issues and facilitate the Panel to conduct its own consultation. SCA reiterated that he could not give a reply to the request at the meeting.

Development of the electoral systems

15. Noting that the Administration would examine the desirability and feasibility of using more technology to improve the polling and counting processes, Mr HUI Cheong-ching asked why the recommendation would only be available in 2002.

16. SCA responded that CAB was currently conducting a review of the 2000 LegCo election and had commissioned a consultant to study the polling and counting processes as well as other related issues. CAB would study the consultant's recommendations before finalizing its view and drawing up proposals for consideration by the Panel and the public. Given that the next District Councils election and LegCo election would be held in 2003 and 2004 respectively, the timetable of 2002 would allow the Administration ample time for preparatory work and public consultation before implementation of any proposals.

17. Mr HUI pointed out that the computerized voting and counting system employed by the Election Committee (EC) election, which had worked well, could easily be further developed for use by the geographical constituency (GC) elections. The Chairman said that given that the electorate of the GC elections was much larger than that of the EC election, there was all the more reason for a computerized voting and counting system to be adopted for GC elections.

18. SCA explained that unlike electors of the GC elections who could only cast one vote, EC members were required to mark not more and not less than six votes on ballot papers. As such a marking process was prone to mistakes and manual checking would be tedious, a computerized system was used

during the count to check whether ballot papers were validly marked and help counting the number of ballot papers. However, the proposal to implement a computerized voting and counting system for GC elections was more complicated given the large number of electors involved and the need for a computerized network to be set up for cross-station polling. In view of the financial and other resources involved, the Administration needed more time to study the proposal.

Legislation on the election of CE

19. Mr Howard Young pointed out that in the event that the EC which had been established to return the six LegCo Members for the 2000 LegCo election was not responsible for electing the second term CE in 2002, it was necessary to allow time for the formation of a new EC. He expressed concern that LegCo might be under a very tight timetable to scrutinize the bill if it was introduced in June 2001, shortly before the LegCo's summer recess.

20. Miss Margaret NG said that the bill to regulate the election of CE should be introduced as early as practicable for two more reasons. First, although the Administration had yet to advise whether the EC established for the 2000 LegCo election was also responsible for selecting the CE in 2002, it was likely that it would be the same EC. Hence, any corrupt and illegal practices involving members of the EC could not be dealt with in the absence of the bill. Secondly, it was the executive authorities which determined the legislative timetable and prescribed the electoral arrangements for the CE election. It should avoid from being seen to be unfair to other persons who intended to stand as candidates at the CE election. The Chairman added that the Administration should also clarify the date of expiry of the term of office of the incumbent CE, as the Honorable TUNG Chee-hwa had in early 1997 mentioned that he had already assumed the post of CE. If this was the case, the term of office of CE would expire in early 2002. This would impact on the date of the CE election and reinforced the call for the bill to be enacted early.

21. SCA assured members that sufficient time would be given to LegCo to scrutinize the bill. The Administration intended to introduce the bill into LegCo not later than mid of 2001. He undertook to discuss this issue with the Panel at the next meeting on 31 October 2000.

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Mechanism for amending the Basic Law

22. Ms Emily LAU expressed concern that the Policy Address had made no reference to the mechanism for amending the Basic Law. SCA responded that the Administration had held a number of meetings with the Hong Kong and Macao Affairs Office in 1999 and 2000. It had all along reported progress to the Panel and would continue to do so. He stressed that it would not be

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appropriate for the Administration to formulate a mechanism unilaterally before consulting all relevant parties.

23. The meeting ended at 9:46 am.

Legislative Council Secretariat
13 November 2000