

Appendix V

Panel on Constitutional Affairs

List of outstanding items for discussion (*position as at 7 October 2002*)

Administration's response on proposed timing for discussion

1. Application of certain provisions of the Prevention of Bribery Ordinance (Cap. 201) (POBO) to the Chief Executive (CE)

The item was first discussed by the Panel at the meeting on 9 February 1999 and followed up at a number of meetings. Members considered it appropriate to codify the common law offence of bribery so that CE would be subject to the same regulatory framework applicable to government officers or public servants under POBO.

Will revert to the Panel later.

At the meeting on 21 January 2002, the Administration advised that it would work out the appropriate legislative amendments to set out in separate provisions a regulatory framework for application to CE, making reference to that being applied to government officers under POBO. The legislative proposals would be introduced into LegCo in the 2002-2003 legislative session. Members, however, were of the view that the proposed amendments should be introduced earlier.

At the meeting on 9 July 2002, the Chairman urged the Administration to revert to the Panel on the subject matter as soon as possible.

2. Mechanism for amending the Basic Law

Discussions on this item were held by the Panel since the 1998-1999 legislative session.

Will provide an update by end of 2002.

At the meeting on 17 July 2001 when the item was last discussed, the Administration advised that it was continuing discussion with the Central authorities regarding the issues identified, particularly those relating to the Standing Committee of the National People's

Congress (NPC), the State Council, the local NPC deputies and the Basic Law Committee. The Administration undertook to revert to the Panel when it was in a position to do so.

3. Issues relating to employees of subvented welfare organisations taking up public offices

Discussions on the issue of employees of tertiary institutions funded by the University Grants Committee (UGC), the Hospital Authority (HA) and subvented welfare organisations taking up public offices were held by the Panel since the 1998-1999 legislative session.

Will report to the Panel later.

Arising from the discussions, the Panel decided to request the Administration to draw up guidelines for staff of subvented non-government organisations (NGOs) in the welfare sector taking up public offices by making reference to the guidelines promulgated by UGC-funded institutions and HA. When the Panel was briefed on the relevant draft guidelines, members were dissatisfied that there were no specific provisions in the guidelines on adjustment of salary/benefits in respect of remunerated public offices. Furthermore, the guidelines were for reference rather than for compliance.

At the meeting on 18 February 2002, the Administration maintained the view that whether the remuneration of employees taking up other public offices should be reduced was a matter between the management of the NGOs and their employees. It also advised that the Social Welfare Department had issued the guidelines to the NGOs.

On the instruction of the Chairman, the Secretariat requested the Secretary for the Civil Service to provide information on the existing arrangement for civil servants taking up public offices. The replies were circulated to the Panel (LC Paper No. CB(2)1549/01-02 and 2102/01-02 dated 12 April 2002 and 29 May 2002).

4. The question of "important bill" under Article 50 of the Basic Law

At the meeting on 20 December 1999, the Panel requested the Administration to clarify the meaning of "important bill" in BL 50. The Administration advised at the meeting on 19 June 2000 that given the complex issues and factors involved in deciding whether a bill was "important", it needed more time to study the matter before forming a mature view.

Further study in progress. Will revert to the Panel later.

The Research Report on "Parliamentary Handling of Non-ordinary Bills" prepared by the Research and Library Services Division (RLSD) was presented to the Panel on 7 May 2001 (RP10/00-01). At the meeting on 21 May 2001, the Administration was requested to take into consideration members' views and revert to the Panel in due course.

5. Development of the political system of the Hong Kong Special Administrative Region (HKSAR)

The Panel presented the Report on the Development of the HKSAR's Political System to the Council in the 1999-2000 session. A motion debate on the subject matter was held on 14 June 2000.

The Panel received views from deputations at the meetings on 12 June and 9 July 2001. At the meeting on 30 October 2001, the Panel urged the Administration to conduct a review of the political system of the HKSAR expeditiously so that any changes arising from the review could be implemented as early as possible after 2007. The Panel also requested the Administration to work out a timetable for the review.

The Administration will listen to the views of different sectors of the community in coming months on the timetable for conducting the review, and will revert to the Panel in due course.

6. Appointment of the Chairman of the Electoral Affairs Commission (EAC)

At the Establishment Subcommittee meeting on 15 November 2000, some members expressed concern about whether there was a need to appoint a Justice of Appeal of the Court of Appeal of the High Court to be the Chairman of EAC as the relevant provision of the EAC Ordinance only required that the person appointed as Chairman of EAC should be a judge of the High Court. Members suggested that the matter be followed up by this Panel.

At the meeting on 21 January 2002, members agreed that there was no overriding urgency to discuss the item as the appointment of the existing Chairman of EAC would expire on 28 September 2003.

The Administration wish to have Members' advice as to what specific issues they wish to examine.

7. Review of role and functions of the District Councils (DCs)

The item was discussed by this Panel on 15 January 2001. Some members considered that DCs should be given decision-making powers on local and district affairs.

This item will form part of the DC review which will be conducted after

The Administration briefed members of this Panel and the Panel on Home Affairs on the Report of the Working Group on Review of the Roles and Functions of the District Councils at the meeting of the Panel on Home Affairs on 16 July 2001.

the 2003 elections.

At the joint meeting of this Panel and the Panel on Home Affairs on 4 October 2001, DC Chairmen and Deputy Chairmen expressed support for early implementation of most of the recommendations in the Report. Regarding the review of the roles and functions of DCs, they considered that it should be dealt with in a separate exercise.

At the joint meeting of this Panel and the Panel on Home Affairs on 4 June 2002, the Administration advised that it will conduct a comprehensive review of DCs for the third and subsequent terms DCs after the second term DC elections in late 2003.

8. Restrictions on activities of former holders of the office of the Chief Executive (CE)

At the meeting on 19 March 2001, the Administration advised the Panel that there was no restriction imposed on commercial or political activities of former holders of the office of CE in and outside HKSAR under the present legislation. At the meeting on 17 July 2001, the Administration briefed members on its preliminary research on the arrangements applicable to heads of governments after stepping down from office in a number of overseas countries.

Will revert to the Panel later.

RLSD presented its Research Report on "Restrictions on Activities of Former Heads of Government and Former Senior Members of Government" to the Panel on 21 January 2002 (RP02/01-02), and provided some supplementary information on the subject (LC Papers Nos. CB(2)1081/01-02(04) and CB(2)1494/01-02(01)).

The subject matter was last followed up at the meeting on 18 March 2002.

9. System of voting and voter registration for LegCo elections

The Administration previously advised that it would further consider the feasibility of implementing automatic voter registration and computerized voting system, pending the results of two studies conducted by the Immigration Department and the

The Administration will cover this issue when they consult the Panel

Registration and Electoral Office respectively.

At the meeting on 30 October 2001, the Administration advised that it would be in a position to report to the Panel on the implementation plan for the automatic registration system by end of 2001.

At the meeting on 9 July 2002, the Chairman urged the Administration to revert to the Panel on the progress as soon as possible.

on the proposals for the 2004 LegCo elections in the first quarter of 2003.

10. Law on political party

At the meeting on 30 October 2001, the Administration advised that a study on the feasibility and desirability of introducing legislation on political parties was expected to be completed in a few months' time. The Administration undertook to report to the Panel on the Government's stance in due course.

At the meeting on 9 July 2002, the Chairman urged the Administration to revert to the Panel on the subject matter as soon as possible.

The Administration will cover this issue when they consult the Panel on the proposals for the 2004 LegCo elections in the first quarter of 2003.

11. Accountability system for principal officials and related issues

Review of the accountability system

At the meeting of the Finance Committee on 14 June 2002, the Administration undertook to report to this Panel in six months' time the progress of the review of the accountability system for principal officials after its introduction on 1 July 2002. At the meeting of the House Committee on 14 June 2002, Hon Emily LAU expressed the view that the Administration should provide the report to Members before the end of 2002, and the report should cover all aspects of the accountability system including the financial arrangements, the operation of the system, and the working relationship between the principal officials and the civil servants.

As agreed at the Finance Committee, the Administration will provide an interim progress report after the Accountability System has been implemented for six months.

Declaration and handling of investments/interests

The Code for Principal Officials under the Accountability System was discussed at the meeting on 9 July 2002. At the request of the Panel, the Administration provided the particulars of the

declarations made by CE, ExCo Members, the principal officials under the accountability system as well as the curriculum vitae of the five new Directors of Bureau appointed from outside the civil service for members' information (LC Paper Nos. CB(2)2679/01-02 and 2699/01-02 circulated on 6 and 12 August 2002 respectively).

The Panel will follow up the relevant issues at the meeting to be held on 7 October 2002.

12. Research project on "shadow cabinet"

At its meeting on 9 July 2002, the Panel agreed that the RLSD should be requested to undertake a research project to study the system of "shadow cabinet" in overseas countries and the possibility of operating a system of similar nature in Hong Kong. A draft research outline on "The Relationship between the Government and the Opposition Party in Overseas Places" prepared by RLSD was endorsed by the Panel by circulation in August 2002. The research project is expected to be completed by October 2002.

New items proposed by the Administration

13. 2003 District Council elections

The Administration will brief the Panel on the following -

End 2002/early
2003

- (a) election deposits, subscribers and election expenses limit;
and
- (b) vote counting arrangements.