

立法會

Legislative Council

LC Paper No. CB(2)1363/02-03

(These minutes have been
seen by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

**Minutes of special meeting
held on Wednesday, 15 January 2003 at 11:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Margaret NG
Hon HUI Cheung-ching, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon IP Kwok-him, JP

Members attending : Hon Cyd HO Sau-lan
Hon Martin LEE Chu-ming, SC, JP
Hon Michael MAK Kwok-fung
Hon WONG Sing-chi

Members absent : Hon NG Leung-sing, JP
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong
Hon SZETO Wah
Hon TAM Yiu-chung, GBS, JP
Hon LAU Ping-cheung

Public officers attending : Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Clement MAK Ching-hung
Permanent Secretary for Constitutional Affairs

Mr Bassanio SO Chek-leung
Acting Deputy Secretary for Constitutional Affairs

Mrs Philomena LEUNG HO Ye-man
Principal Assistant Secretary for Constitutional Affairs

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

Staff in attendance : Mr Paul WOO
Senior Assistant Secretary (2)3

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I. Briefing by the Secretary for Constitutional Affairs on the Chief Executive's Policy Address 2003

(Address made by the Chief Executive at the Council meeting on 8 January 2003; Policy Agenda for the 2003 Policy Address; Progress Report on Policy Objectives; LC Paper Nos. CB(2)904/02-03(01), 930/02-03(02) and 931/02-03(03))

At the invitation of the Chairman, Secretary for Constitutional Affairs (SCA) briefed members on the following papers prepared by the Administration -

- (a) paper on the priorities of the Constitutional Affairs Bureau (CAB) as set out in the Policy Agenda (LC Paper No. CB(2)904/02-03(01));
 - (b) interim report on the implementation of the accountability system for principal officials (LC Paper No. CB(2)930/02-03(02) tabled at the meeting); and
 - (c) paper on 2004 Legislative Council (LegCo) elections : Geographical constituencies and election expense limits (LC Paper No. CB(2)931/02-03(03) tabled at the meeting).
2. The Chairman said that further discussion on the items in paragraph 1(b) and (c) could be held at the Panel meeting on 20 January 2003.
 3. The main points highlighted by SCA were as follows -

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Implementation of the accountability system for principal officials

- (a) the accountability system was working satisfactorily in achieving greater responsiveness to the needs and aspirations of the public at large, formulating measures to meet such needs and developing new initiatives;
- (b) the 11 Directors of Bureau had made a preliminary assessment of the need to reorganise the bureaux and departments under their policy purview. Four bureaux, namely, Housing, Planning and Lands Bureau, Education and Manpower Bureau, Civil Service Bureau and Financial Services and the Treasury Bureau had made progress. Of the remaining seven bureaux, CAB and the Security Bureau had decided that there would not be any major reorganisation involving the bureaux or the executive departments falling within their purview. The other five bureaux would come to a view on the matter by mid-2003;
- (c) the net increase in full annual cost of the accountability system amounted to \$42.228 million. The Administration pledged that it would effect sufficient savings within 12 months to make the exercise cost neutral. The savings realized or identified as a result of the re-organisation of the four bureaux and their departments (paragraph 3(b) refers), in terms of staff costs, amounted to \$75.65 million;
- (d) the review of the number, ranking and duties of the 16 Permanent Secretaries, ranked at AOSGA1 (D8) level, was underway. Five Directors of Bureau, namely, SCA, Secretary for the Civil Service (SCS), Secretary for Education and Manpower (SEM), Secretary for Housing, Planning and Lands (SHPL), and Secretary for Security (S for S), had completed their review. SCA and S for S had decided that the post of Permanent Secretary for their bureaux could be pitched at AOSGA (D6) for the time being pending a further review in the light of experience. SHPL and SEM had sought the approval of the Establishment Subcommittee and the Finance Committee to retain the rank of the two Permanent Secretaries in HPLB and one Permanent Secretary in EMB at AOSGA1 (D8). SCS had decided that the Permanent Secretary post in his bureau should continue to be ranked at D8. The remaining Directors of Bureau would continue with their reviews and present their proposals to LegCo as appropriate if there were any changes to the number, ranking and duties of their Permanent Secretary posts;

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2003 District Council (DC) elections

- (e) the Bill proposing to increase a total of 10 elected seats in three districts (i.e. Yuen Long, Sai Kung and Islands) was passed by LegCo on 18 December 2002. In January 2003, the Electoral Affairs Commission (EAC) published its preliminary delineation proposals for the 2003 DC elections for a one-month public consultation. Subsidiary legislation relating to these elections would be submitted to LegCo for scrutiny;

2004 LegCo elections

Geographical constituencies (GCs)

- (f) the Administration recommended that five GCs (with the number of seats in each GC ranging from four to eight) and the list voting system which had been used in the past two elections, be adopted for the 2004 LegCo elections;

Election expense limits

- (g) the Administration recommended that the election expense limits for the five GCs should be derived on the basis of \$1.5 per head of population in a given GC, rounded to the nearest \$500,000. The same formula was adopted in the 2000 LegCo elections. In respect of the 2004 functional constituencies (FC) elections, it was proposed that there was no need to adjust the current election expense limits, and the same four-tier election expense limits in 2000 FC elections should continue to apply; and

Review of constitutional developments after 2007

- (h) the Administration would begin to make suitable preparations for the review of constitutional developments of the Hong Kong Special Administrative Region (HKSAR) after 2007. The Administration would report to LegCo on recommendations at an appropriate stage.

Issues raised by members

2004 LegCo elections - GC elections

4. Referring to the Administration's proposal of five GCs with four to eight seats in each GC, Dr YEUNG Sum expressed concern that for a GC with a large number of seats, a candidate with a low level of support from electors could get elected.

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5. SCA responded that it was reasonable for the larger GCs to have more directly elected seats. For GCs with a large population, such as New Territories West with a population of around two million by 2004, it was estimated that a candidate would need to obtain at least about 20 000 votes in order to get elected. As the number of GC seats would be proportional to the population, there should not be great deviations between GCs in terms of the level of support secured by the elected candidates.

6. SCA further advised that the proposal made by the Administration had the advantage of allowing sufficient room for EAC to decide whether the demarcation of boundaries of the existing five GCs should remain intact or not, having regard to the experiences of the two general elections in 1998 and 2000. Moreover, the increase in the number of directly elected GC seats from 24 to 30 for the third term LegCo could cater for the movement of population from the urban areas to the new towns and minimise the need to change the GC boundaries. SCA added that candidates, political parties and political groups had been cultivating community support on the basis of the current GC boundaries. Minimising changes would therefore be advantageous and convenient to voters, candidates, political parties and groups alike.

Demarcation of constituency boundaries

7. Mr IP Kwok-him noted the Administration's view that stable constituency boundaries enabled serving LegCo Members and prospective candidates to cultivate amicable and sustainable relationship with their electorates. Referring to the preliminary recommendations on the boundaries of DC constituencies for the 2003 DC elections published by EAC on 6 January 2003 for public consultation, Mr IP pointed out that the boundaries of more than 160 DC constituencies (i.e. more than one-third of the total constituencies) were proposed to be redelineated. He said that this seemed to run counter to the Administration's stated view and its advice that a comprehensive review of DCs would be conducted after the 2003 DC elections.

8. SCA replied that EAC had adhered to the principle of making minimum changes to existing constituency boundaries in formulating its proposals on delineation of constituency boundaries. The re-demarcation of DC constituency boundaries proposed by EAC had taken into account population changes and the number of seats in certain constituencies.

9. SCA further said that all concerned parties were welcome to put forward their views on the redelineation proposals for the 2003 DC elections for EAC's consideration during the one-month consultation period, before EAC finalised the proposals for submission to the Chief Executive (CE).

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10. The Chairman agreed that the approach of increasing the number of elected seats to cater for population growth was consistent with the principle of maintaining stability in constituency boundaries. He said that compared to DC elections, which featured single-member constituencies, stability in constituency boundaries could more easily be achieved in LegCo GC elections because of the multi-member nature of GCs.

Review of constitutional developments after 2007

11. Dr YEUNG Sum, Ms Cyd HO Sau-lan, Ms Emily LAU and Miss Margaret NG expressed concern about the lack of progress of the review of constitutional developments of HKSAR after 2007. They considered that the review should commence as soon as possible in order to allow sufficient time for public consultation and discussions, and making amendments, if any, to the provisions of Annex I and Annex II of BL to provide for the election of CE and LegCo Members by universal suffrage.

12. SCA said that the Administration would begin to make suitable preparations for the review of constitutional developments in HKSAR after 2007. It would undertake the review according to the following three principles -

- (a) the Administration would act in accordance with the relevant requirements of BL;
- (b) the Administration would ensure that there was sufficient time for a wide consultation exercise; and
- (c) the Administration would leave sufficient time for the mechanisms in BL to be triggered and for any local legislation to be enacted.

SCA added that in view of the importance and complexity of the issue, the Administration would report to the Panel on its recommendations at an appropriate stage after detailed consideration. He added that to date the Administration had not formulated any concrete proposals as to the process of conducting the review and the timetable for public consultation.

13. Miss Margaret NG said that the least the Administration could do was to advise members of the time it was in a position to come up with proposals on the review of constitutional developments, namely, the timetable, process of conducting the review, and scope of the public consultation. Ms Emily LAU pointed out that LegCo had passed two motions in 2000 relating to constitutional developments of HKSAR and it was the consensus view of Members that the Administration should proceed with a comprehensive review without delay. She added that she would move a motion on "Public consultation on constitutional reforms" for debate at the Council meeting on 19

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February 2003.

14. SCA reiterated his advice in paragraph 12 above. Ms Cyd HO Sau-lan pointed out that according to the booklet on Policy Agenda for the 2003 Policy Address which set out the initiatives of the Government for the next 18 months, one of the new initiatives on effective governance was to make suitable preparations for the review of constitutional developments after 2007. She said that this meant that progress had to be made regarding the review within 18 months.

15. The Chairman said that the timing for review of constitutional developments after 2007 could be subject to two interpretations, i.e. the review could be completed before 2007 with any decided changes implemented after 2007, or the review should only be conducted after 2007. He further pointed out that Annex I of BL set out the requirements for amending the method for selecting CE for the terms subsequent to the year 2007. He said that whether election of CE by universal suffrage could be introduced for the third term CE commencing in July 2007 or only for subsequent terms was debatable. Ms Emily LAU said that in her view, the election of CE and LegCo Members by universal suffrage in 2007 and 2008 respectively would not contravene BL.

16. SCA responded that any proposals relating to the method for selecting CE and the formation of LegCo subsequent to the year 2007 could be made before 2007. He added that the Administration would seriously consider the timing and process of conducting the review and ensure that there was sufficient time for a wide consultation exercise.

17. In response to Mr YEUNG Yiu-chung's enquiry about paragraph 6 of the Administration's paper on 2003 Policy Address (LC Paper No. CB(2)904/02-03(01)) which referred to the mechanisms in BL to be triggered for the purpose of constitutional reform, SCA explained that they referred to the procedures and requirements specified in Annex I and Annex II of BL in respect of the method for selection of CE and the formation of LegCo.

Mechanism for amendment of BL

18. In response to Dr YEUNG Sum, SCA said that the Administration would report progress to LegCo on its study of the mechanism for amendment of BL in the first quarter of 2003.

Accountability system for principal officials

19. Noting the progress of the review of the number and ranking of Permanent Secretaries as reported by SCA in paragraph 2(d) above, Ms Emily LAU said that she was of the view that it might not be justified to pitch the ranking of all Permanent Secretaries at AOSGA1 (D8) level. Apart from the

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Permanent Secretaries of CAB and SB, she asked whether there was scope for downgrading the rank of the remaining Permanent Secretary posts.

20. SCA explained that in deciding on the number and ranking of Permanent Secretaries, Directors of Bureau would have regard to -

- (a) the scope of responsibilities and complexity of the portfolios;
- (b) the span of control and size of the resources under the steer of the office; and
- (c) the demand for policy formulation work and high level administrative skills.

SCA further said that the Administration had agreed to revert to LegCo regarding the retention of the five Permanent Secretary posts at AOSGA1 (D8) which involved substantial changes in functions and responsibilities.

21. Mr HUI Cheung-ching enquired about the criteria adopted by the Administration in assessing the success or failure of the accountability system. He also asked whether the future progress report to be submitted by the Administration in 12 months after the implementation of the accountability system would give an account of the work of individual bureaux and the performance of individual principal officials.

22. SCA said that as the accountability system for principal officials was a new system, the reports would focus on the implementation of the system and its effectiveness as a whole, as well as any outstanding issues which the Administration had undertaken to report to LegCo. He added that the second progress report to be submitted in six months' time would provide an overall assessment of the implementation of the system.

23. With regard to the work of individual bureaux and the accountability of individual principal officials to the public for matters under their respective policy portfolios, SCA said that it would be more appropriate for the relevant LegCo Panels to follow up if considered necessary.

II. Any other business

24. There being no other business, the meeting ended at 12:40 pm.