

**立法會**  
**Legislative Council**

Ref : CB2/PL/AJLS+SE

LC Paper No. CB(2) 933/02-03  
(These minutes have been seen  
by the Administration)

**Panel on Security  
and  
Panel on Administration of Justice and Legal Services**

**Minutes of joint meeting held on Thursday, 5 December 2002  
at 4:30 pm in the Chamber of the Legislative Council Building**

**Members  
present** : Panel on Security

Hon LAU Kong-wah (Chairman)  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHEUNG Man-kwong  
Hon Andrew WONG Wang-fat, JP  
Hon WONG Yung-kan  
Hon Howard YOUNG, JP  
\* Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon IP Kwok-him, JP  
\* Hon Audrey EU Yuet-mee, SC, JP

Panel on Administration of Justice and Legal Services

◆ Hon Margaret NG (Chairman)  
Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)  
Hon Martin LEE Chu-ming, SC, JP  
Hon CHAN Kam-lam, JP  
Hon Miriam LAU Kin-ye, JP  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP

**Member  
attending** : Hon LEUNG Fu-wah, MH, JP

**Members  
absent** : Panel on Security

- \* Hon James TO Kun-sun (Deputy Chairman)
- \* Hon Albert HO Chun-yan  
Dr Hon LUI Ming-wah, JP  
Hon Michael MAK Kwok-fung

\* Also a member of Panel on Administration of Justice and Legal Services

◆ Also a member of Panel on Security

**Public Officers** : Mr Timothy TONG  
**attending** Permanent Secretary for Security (Acting)

Mr James O'NEIL  
Deputy Solicitor General

Mr Hubert LAW  
Assistant Secretary for Security

Mr Dennis CHIU  
Executive Officer  
Security Bureau

**Attendance by** : Sham Shui Po Nam Cheong District Resident & Merchants  
**invitation** Association

---

Mr KO Ka-kwong  
Chairman

Mr YUNG Hoi  
Chief Executive

Sham Shui Po Women's Organisations Federation

Ms LEE Kwan-chee  
Executive Member

Hong Kong Human Rights Commission

Mr TSOI Yiu-cheong

Mr WONG Chi-yuen

YUA Current Affairs Society

Mr LAU Chong-him  
Vice-President

Mr YUNG Ka-ho, Philip  
Member

Hong Kong Senior Education Workers Association Limited

Mr HO King-on  
Vice-Principle

Kwong Tin Estate Resident Union

Mr LO Kong-lam  
Chairman

Ms CHUI Wai-kuen  
Vice-Chairman

Quarry Bay Resident's Association

Mr NG Man-yiu  
Chief Executive

Mr YUEN Kam-shing  
Supervisor of Culture and Sports

Mr LEE Hung-tak

Hong Kong Voice of Democracy

Mr FUNG Chi-wood  
Director

Mr LAU San-ching  
Director

**Clerk in attendance** : Mrs Sharon TONG  
Chief Assistant Secretary (2)1

**Staff in attendance** : Ms Bernice WONG  
Assistant Legal Adviser 1

Ms Joanne MAK  
Senior Assistant Secretary (2)2

---

Action

**I. Election of Chairman**

Miss Margaret NG was elected Chairman of the joint meeting.

**II. To receive public views on the Consultation Document on Proposals to implement Article 23 of the Basic Law**

2. The Chairman welcomed the representatives of eight deputations and one individual to the meeting.

Meeting with representatives of Sham Shui Po Nam Cheong District Residents & Merchants Association

(LC Paper No. CB(2) 397/02-03(01))

3. Mr KO Ka-kwong presented the views of Sham Shui Po Nam Cheong District Residents & Merchants Association as detailed in the submission. He concluded that

-

(a) the Government of the Hong Kong Special Administrative Region (HKSARG) had the legal responsibility to enact legislation to implement Article 23 of the Basic Law (BL23) and it was the right time for the enactment; and

(b) there was no need to issue a white bill on the proposed legislation.

Meeting with representative of Sham Shui Po Women's Organisations Federation

(LC Paper No. CB(2) 397/02-03(02))

4. Ms LEE Kwan-chee presented the views of Sham Shui Po Women's Organisations Federation as detailed in the submission. She concluded that -

(a) the HKSARG was obliged to enact legislation to implement BL23; and

(b) the Administration's current approach of consultation on the proposed legislation on BL23 was acceptable and there was no need to extend the consultation process.

Meeting with representatives of Hong Kong Human Rights Commission  
(LC Paper No. CB(2) 397/02-03(08))

5. Mr WONG Chi-yuen and Mr TSOI Yiu-cheong presented the views of Hong Kong Human Rights Commission as detailed in the submission. They concluded that

-

- (a) there was no need at the present stage for the enactment of additional legislation to implement BL23 because existing legislation for the protection of national security was very stringent already;
- (b) the consultation process was only proper if the proposals set out in the Consultation Document were first provided to the Law Reform Commission for deliberations before released for public consultation;
- (c) if there was a consensus reached in the society that the requirement under BL23 for the enactment of legislation was not necessary, the mechanism for amending the BL should be activated; and
- (d) the proposals to implement BL23 went against the principles adopted by the International Covenant on Human Rights, the will of the majority of Hong Kong residents and the economic interest of Hong Kong.

Meeting with representatives of YUA Current Affairs Society  
(LC Paper No. CB(2) 397/02-03(09) and CB(2) 599/02-03(03))

6. Mr LAU Chong-him presented the views of YUA Current Affairs Society as detailed in his speaking note. He concluded that it was absolutely necessary to enact legislation to implement BL23.

Meeting with representatives of Hong Kong Senior Education Workers Association Limited  
(LC Paper Nos. CB(2) 397/02-03(10) and CB(2) 599/02-03(02))

7. Mr HO King-on presented the views of Hong Kong Senior Education Workers Association Limited as detailed in his speaking note. He concluded that it was the right time for the enactment of legislation to implement BL23 and there was no need to issue a white bill on the proposed legislation.

8. Referring to the submission from the Hong Kong Human Rights Commission, Mr HO King-on disagreed that the stipulations under BL23 had contravened the Sino-British Joint Declaration. He pointed out that the preparation of BL23 had taken a very long time and when the BL was promulgated in 1990, it had been received favourably by the Government of the United Kingdom (UK) and it did not exist that

the BL contravened the Joint Declaration.

Meeting with representatives of Kwong Tin Estate Resident Union  
(LC Paper No. CB(2) 397/02-03(12))

9. Mr LO Kong-lam presented the views of Kwong Tin Estate Resident Union as detailed in the submission. He concluded that the Resident Union supported the enactment of legislation to implement BL23 and there was no need to issue a white bill for public consultation.

Meeting with representatives of Quarry Bay Resident's Association  
(LC Paper No. CB(2) 397/02-03(13))

10. Mr NG Man-yiu presented the views of Quarry Bay Resident's Association as detailed in the submission. He concluded that the Association was in support of the enactment of legislation to implement BL23.

Meeting with Mr LEE Hung-tak  
(LC Paper No. CB(2) 397/02-03(14))

11. Mr LEE Hung-tak presented the views as detailed in his submission. He concluded that it was necessary to enact legislation to implement BL23 as required under the BL and there was no need to issue a white bill on the proposed legislation.

Meeting with representatives of Hong Kong Voice of Democracy  
(LC Paper Nos. CB(2) 397/02-03(15) and CB(2) 599/02-03(01))

12. Mr FUNG Chi-wood presented the views of the Hong Kong Voice of Democracy as detailed in the submission. He concluded that the Hong Kong Voice of Democracy strongly opposed BL23.

13. Mr LAU San-ching said that his major concern was that the enactment of legislation under BL23 might result in an extension of the political trial system in the Mainland into Hong Kong. He said that as proposed in the Consultation Document, it would be an offence to organise or support the activities of proscribed organisations. In other words, HKSAR courts were bound to rule a local organisation unlawful if it was found organising or supporting the activities of proscribed organisations in the Mainland. Mr LAU expressed worry that as a result of the proposal, even ridiculous verdicts given by the Mainland courts at their trials would be forced upon HKSAR courts. He further gave examples of political sentences imposed by the Mainland courts on dissidents (including Mr LAU himself) and pointed out that many people had been convicted of the offences of sedition, secession and treason in the Mainland for

reasons such as demanding for drawing up a constitution by popular participation and setting up an independent workers' union, commenting on a strike staged by workers during an interview by the media, etc.

14. Mr LAU San-ching said that he was the spokesman of the Hong Kong branch of the Chinese Democratic Party ("中國民主黨"), which had been proscribed in the Mainland by the Central Authorities. He expressed concern as to whether the Hong Kong branch would also be proscribed under the proposed legislation.

#### Issues raised by Members

15. Ms Emily LAU said that she had recently been invited to a forum organised by Yan Oi Tong to discuss the proposals to implement BL23. However, the Permanent Secretary for Security (Acting) (PS for S(Atg)), who was also invited, had declined to attend the forum and as a result, it had been cancelled. Ms LAU said that PS for S(Atg) had refused to attend two other similar forums which were organised by her and she also noted that recently S for S had not attended many of these forums for discussion of the proposals. She asked Mr LO Kong-lam, who suggested that the Administration should actively explain to the public the proposals to implement BL23, whether the Administration's representatives were wrong in refusing to attend these forums. She also asked how Mr LO interpreted the fact that the popularity rate of S for S had been falling.

16. Mr LO Kong-lam responded that since the proposals to implement BL23 were the concern of all Hong Kong people, the Administration should send representatives to explain to and answer questions from the public on the proposals and the policy intent. He said that he was not in a position to comment on S for S' refusals to some of the invitations. However, he emphasised that these did not affect his favourable impression of S for S.

17. Mr HO King-on said that Hong Kong Senior Education Workers Association Limited had organised forums for discussion of BL23. He said that the Security Bureau had sent representatives to all these forums and he was of the view that the Administration had made sustained efforts in explaining the proposals to the public.

18. PS for S(Atg) said that he had declined to attend the forum organised by Yan Oi Tong to be held on the following Saturday because it had clashed with another one to which the Administration had given priority. He said that the Administration had tried its best to attend as many of these forums as possible and he believed that he still had many opportunities to discuss with Ms Emily LAU the proposals to implement BL23. He welcomed Members to attend the forums to be held over the coming weekend to discuss the proposals.

19. Mr Howard YOUNG requested Mr TSOI Yiu-cheong to explain his view that the proposals to implement BL23 were against the economic interest of Hong Kong.

He asked Mr TSOI whether he had made the conclusion only based on the concerns expressed by the financial sector recently that the proposed legislation might affect the free flow of information in Hong Kong. He also asked Mr TSOI to clarify whether the financial sector had expressed opposition to the proposed legislation or they had just raised concerns about the impact on the free flow of information.

20. Mr TSOI Yiu-cheong responded that the banking sector and a foreign chamber of commerce had recently expressed worries about the impact of the proposed legislation on BL23 on the free flow of information. Moreover, Hon David LI, who represented the banking sector, had demanded the Administration to first issue a white bill on the proposed legislation. He said that the wide concerns expressed by different groups, organisations and foreign governments were a clear warning signal to the Administration. He urged the Administration to re-consider whether it should push ahead the proposed legislation when it had yet to allay the concerns raised. He expressed worry that the proposed legislation would have adverse impacts not only on the economy but also on the future of Hong Kong.

21. PS for S(Atg) said that at a forum held earlier on the day, the Administration had issued a statement explaining that the enactment of legislation on BL23 would be conducive to the business environment of Hong Kong. At the request of the Chairman, PS for S(Atg) agreed to provide a copy of the statement to Members for reference.

*(Post-meeting note: The statement issued by the Administration was subsequently forwarded to Members on 6 December 2002 vide LC Paper No. CB(2)587/02-03(01).)*

22. Mr TSOI Yiu-cheong said that the Hong Kong Human Rights Commission considered that BL23 contradicted the undertakings given by the Government of the People's Republic of China (PRCG) in the Joint Declaration. As declared in the Joint Declaration, rights and freedoms of Hong Kong residents were ensured by law in the HKSAR. Moreover, the HKSAR enjoyed a high degree of autonomy, except in foreign and defence affairs which were the responsibilities of the Central People's Government. Mr TSOI said that the proposed legislation to implement BL23 was to protect national security, which fell outside the scopes of foreign and defence affairs. Therefore, the proposed legislation was a local issue, over which the HKSAR enjoyed a high degree of autonomy as guaranteed by the PRCG in the Joint Declaration. Mr TSOI said that the only way to interpret BL23 without contravening the Joint Declaration was that BL23 was not binding on the HKSAR.

23. Mr TAM Yiu-chung said that he did not recall the UK Government had ever said that BL23 was in violation of the Joint Declaration. He further said that before 1997, the Hong Kong Government had also introduced a bill for implementing BL23 and at that time no one had mentioned that BL23 was in violation of the Joint Declaration. Mr TSOI Yiu-cheong responded that the undertakings given by the PRCG had been clearly set out in the Joint Declaration and people could make their



own interpretations as to whether BL23 contravened the Joint Declaration according to its content.

24. Mr TAM Yiu-chung asked whether the representatives of the Hong Kong Human Rights Commission and the Hong Kong Voice of Democracy were of the view that the PRC was not their motherland and they did not care even if the PRC was invaded. Mr TAM said that while Mr FUNG Chi-wood claimed that the proposed legislation on BL23 had to be opposed in order to uphold the "one country, two systems" principle, he reminded Mr FUNG that "one country, two systems" was the promise made by the PRCG.

25. Mr FUNG Chi-wood responded that, as explained in paragraph 3 of the submission of the Hong Kong Voice of Democracy, sovereignty and regime were two different matters and it was only the former, not the latter, that should be protected. He said that in a democratic country, people had all the rights to demand for a change of government through elections.

26. Mr FUNG Chi-wood further said that the Hong Kong Voice of Democracy was of the view that the enactment of legislation to implement BL23 contravened the "one country, two systems" principle. He said that under this principle, rights and freedoms enjoyed by Hong Kong residents before the Reunification should be ensured by law in the HKSAR. However, he believed that through the enactment of legislation to implement BL23, the concepts and standards in respect of human rights, freedoms and law enforcement as adopted on the Mainland would be introduced into Hong Kong. He said that under the proposals in respect of theft of state secrets and foreign political organisations, new offences would be created and these clearly showed that the freedoms enjoyed by Hong Kong people would be curtailed under the proposed legislation.

27. Mr TSOI Yiu-cheong said that as a citizen of the PRC, he loved the PRC but this did not necessarily mean that he must support the Chinese Communist regime. He agreed with Mr FUNG Chi-wood that governments could change hands and it was only sovereignty that should be protected when dealing with national security. He expressed concern that the proposed legislation for implementing BL23 would be used to consolidate the undemocratic rule of the Chinese Communist regime rather than to protect national security.

28. Mr TAM Yiu-chung disagreed that certain standards adopted in the Mainland would be introduced into Hong Kong through the enactment of legislation on BL23. He said that in fact, some of the BL23 offences were already dealt with under existing legislation. For example, treason was dealt with under the Crimes Ordinance (Cap. 200). He said that it was only proposed in the Consultation Document to update and improve the relevant provisions to meet the requirements of the BL. Mr TAM considered that the worries of the representatives would have been allayed if they had perused more thoroughly the Consultation Document.

29. Mr HO King-on pointed out that as declared in the Joint Declaration, the basic policies of the PRCG regarding Hong Kong were upholding national unity and territorial integrity. He reiterated that when the BL was promulgated, it had been favourably received by the UK Government. Therefore, it was wrong to say that BL23 contravened the Joint Declaration.

30. Referring to paragraph 3 of the submission from Mr LEE Hung-tak, Mr Martin LEE asked whether Mr LEE considered that students must have been misled and influenced by bad elements if they opposed the enactment of legislation on BL23. Mr LEE Hung-tak responded that he was acquainted with some youngsters who had little understanding of the Chinese Communist Party but had expressed opposition to it as incited by other people. He said that youngsters who opposed the enactment of legislation on BL23 did not have a rational understanding of the issue.

31. Ms Audrey EU asked the representatives of the Hong Kong Voice of Democracy why they considered that independent news organisations, like the Hong Kong Voice of Democracy, would probably be the targets of enforcement under the proposed legislation. She also asked whether the Hong Kong Voice of Democracy would be affected if legislation was enacted in accordance with paragraph 7.15 of the Consultation Document.

32. Mr FUNG Chi-wood responded that the Hong Kong Voice of Democracy made use of the Internet to report news concerning Hong Kong and the Mainland. Most of the news covered was about violations of human rights, pro-democracy activities, demonstrations of citizens, arrests and unfair trials or even imprisonment of dissidents in the Mainland, which was certainly not welcomed by the Central Authorities. He believed that because of its nature of work, the Hong Kong Voice of Democracy would easily be caught by the proposed BL23 offences, particularly the proposed offence of "theft of state secrets".

33. Mr FUNG Chi-wood further said that some of the news was obtained through the Internet from organisations which were probably not welcomed by the Central Authorities or had been proscribed by them. Mr FUNG expressed concern whether such contacts between the Hong Kong Voice of Democracy and those organisations or pro-democracy activists in the Mainland would be regarded as "a connection with a proscribed organisation in the Mainland" under the proposed legislation.

34. Ms Audrey EU asked why Mr FUNG considered that there would be a great chance for the Hong Kong Voice of Democracy to breach the proposed legislation on "theft of state secrets". Mr LAU San-ching responded that the Hong Kong Voice of Democracy had reported news such as Taiwanese and Tibetan separatist movements, views and positions of some proscribed organisations, strikes staged by Mainland workers, anti-government speeches of Mainland people, etc. He was concerned whether it would be an offence for the Hong Kong Voice of Democracy to re-print, record or report such news in the future. Mr FUNG Chi-wood said that if Members were interested in the work of the Hong Kong Voice of Democracy, he could provide

further information to Members. The Chairman said that all the deputations were welcome to provide supplementary information in writing to Members.

*(Post-meeting note: Further information provided by the Hong Kong Voice of Democracy was subsequently forwarded to Members on 9 December 2002 vide LC Paper No. CB(2)599/02-03(01).)*

35. Mr LAU Kong-wah pointed out that legislation for the protection of national security had been introduced in many countries. He also pointed out that some of the BL23 offences, in fact, were already dealt with under existing legislation. He asked whether the representatives of the Hong Kong Voice of Democracy had taken these into account in drawing up their submission.

36. Mr FUNG Chi-wood responded that the Hong Kong Voice of Democracy was firmly opposed to the enactment of legislation on BL23 as it saw no need at the present stage for the enactment. He said that it would be better if a white bill was issued on the proposed legislation. However, he would still be worried if the white bill was just a reflection of the content of the Consultation Document.

37. Mr FUNG Chi-wood said that the existing legislation was more than sufficient for the purpose of protecting national security. He said that some of the provisions of the relevant legislation were actually too harsh and should be repealed. He was of the view that the system of notice of no objection under the Public Order Ordinance (Cap. 245), for example, should be abolished.

38. Mr FUNG Chi-wood said that the major concern of the Hong Kong Voice of Democracy was that there were fundamental differences between the government systems of the HKSAR and of many other places where legislation for protection of national security had been introduced. He said that the HKSARG was not formed by democratic election and the composition of LegCo was not democratic either. Under the present political system, the HKSARG did not have to take heed of the views of the public.

39. Mr LAU San-ching pointed out that the concept of national security had been invoked by the PRCG to suppress human rights and impose unjust political imprisonment. He said that Hong Kong people were worried that the way the PRCG enforced national security laws might be brought into Hong Kong through the enactment of legislation on BL23.

40. Mr LAU Kong-wah asked why Mr LAU San-ching was worried that the Hong Kong branch of the Chinese Democratic Party would be proscribed under the proposed legislation. He said that according to the Administration's proposals, an offence of treason, secession or subversion was about "overturning the PRCG", "withdrawing a part of the PRC from its sovereignty", "intimidating the PRCG", etc. Moreover, these offences had to be committed "by levying war, or by force, threat of force, or other serious unlawful means".

41. Mr LAU San-ching drew Members' attention to paragraphs 7.15 to 7.17 in the Consultation Document which proposed to make it an offence to organise or support the activities of a proscribed organisation. Mr LAU said that under the proposal, HKSAR courts were bound to rule that an organisation was illegal and had to be proscribed, if it was established that the organisation organised or supported the activities of an organisation proscribed in the Mainland. Therefore, as the Chinese Democratic Party in the Mainland had already been proscribed by the Central Authorities on the grounds of subversion, HKSAR courts would be bound to rule that the Hong Kong branch of the Chinese Democratic Party was subversive under the proposed legislation.

42. Referring to paragraph 12 of the submission of Hong Kong Human Rights Commission, Mr IP Kwok-him asked Mr TSOI Yiu-cheong whether it was also true to say that countries like the United States (US) and the UK had introduced national security laws to protect the regime rather than national security.

43. Mr TSOI Yiu-cheong responded that he did not suggest that legislation introduced in countries such as the US always had the full support of its nationals. He said that what was at issue was the fact that the government system of the PRC was not representative and not well recognised by its people as it practised one-party dictatorship. There were no safeguards in place to prevent the PRCG from using the proposed legislation to consolidate its rule in the name of protecting national security. Mr TSOI said that as the proposals in the Consultation Document had given rise to worries, the Hong Kong Human Rights Commission was opposed to the enactment of legislation. He said that some of the proposals in the Consultation Document were beyond the scope of BL23, such as the proposal of dealing with the offence of seriously endangering the stability of the HKSAR in the legislation to implement BL23.

44. Mr IP Kwok-him asked whether Mr TSOI considered that the Administration should not proceed with a legislative proposal whenever concerns were expressed on it. He asked whether Mr TSOI would agree that, in the scrutiny of the proposals to implement BL23, it would be a better approach to peruse the proposals more thoroughly and suggest improvements to protect the interest of Hong Kong people.

45. Mr TSOI Yiu-cheong responded that according to the international covenant on human rights, in a democratic society, legislation for the protection of national security should be introduced only when it was considered necessary having regard to practical social needs. Mr TSOI said that however, he did not see there was an urgent social need in Hong Kong to enact legislation for implementation of BL23 at the present stage. Given the strong views expressed by people on the proposals to implement BL23, Mr TSOI said that the HKSARG must not introduce the proposed legislation in a rush. He added that the submission of the Hong Kong Human Rights Commission had set out detailed comments on the proposals in the Consultation Document.

46. Referring to the question raised by the Hong Kong Voice of Democracy as to whether "connection", in paragraph 7.17 of the Consultation Document, included courtesy contacts, Ms Miriam LAU said that the meaning of "connection" was already defined in paragraph 7.17(a) to (d) of the Consultation Document. She asked whether Mr FUNG was of the view that a local organisation which had such a connection with a proscribed Mainland organisation as described in paragraph 7.17 should not be regarded as unlawful.

47. Mr FUNG Chi-wood responded that the meaning of "connection" in paragraph 7.17(d) was too broad, especially the term "participation". He queried that if an organisation proscribed in the Mainland sent an e-mail to many organisations including the Hong Kong Voice of Democracy, whether this act, for example, would be caught by the definition of "participation" in paragraph 7.17(d). He hoped that "connection" would be narrowly defined when the proposed legislation on BL23 was drafted.

48. Mr FUNG Chi-wood further explained his views on the proposals in paragraph 7.17(a) to (d) of the Consultation Document. He disagreed that an organisation should be proscribed simply because it had solicited or accepted financial contributions from a proscribed organisation, as proposed in paragraph 7.17(a). He said that given the rapid development of the Internet, international link should be promoted and fostered. He was opposed to enacting laws to prohibit organisations from developing connections with others. He was of the view that the proposed legislation on BL23 should be introduced only for prohibiting acts which posed a genuine threat to national security.

49. Mr FUNG also disagreed that an organisation should be proscribed because of its affiliation with a proscribed organisation in the Mainland, as proposed in paragraph 7.17(b). He said that the Administration should maintain its existing policy in handling organisations such as Falung Gong in Hong Kong and the Hong Kong branch of the Chinese Democratic Party. He also opposed the definition in paragraph 7.17(c) which was vague.

50. Mr LAU San-ching considered that the existence of organisations, which fulfilled the conditions set out in paragraph 7.17(a), (b), (c) or (d), in Hong Kong would not have an impact on the stability of Hong Kong. He suggested that the Administration's proposal to prohibit the operation of an organisation that had a connection with a proscribed organisation, as set out in paragraph 7.17, should be dropped.

51. In response to the Chairman, PS for S(Atg) confirmed that an organisation which fulfilled any one of the conditions set out in paragraph 7.17(a), (b), (c) or (d) of the Consultation Document would be regarded as having "a connection with a proscribed organisation". However, he clarified that the "proscribed organisation" in this context only referred to an organisation in Hong Kong that had already been proscribed by S for S. It did not mean a Mainland organisation that had been

proscribed in the Mainland by the Central Authorities on national security grounds.

52. PS for S(Atg) explained that paragraph 7.15 of the Consultation Document set out the three pre-conditions under which S for S could proscribe an organisation. Such a power would only be exercised if S for S believed that this was necessary in the interests of national security or public safety or public order. He added that the proscription of an organisation should not contravene the International Covenant on Civil and Political Rights.

53. PS for S(Atg) said that the proposals in paragraph 7.17 of the Consultation Document were not to deal with an organisation that had a connection with an organisation proscribed in the Mainland on national security ground. Rather, he said that paragraph 7.17 was actually to deal with an organisation that had a connection with another organisation that S for S had proscribed because the latter was affiliated with a third organisation in the Mainland which had been proscribed by the Central Authorities on national security grounds and that S for S believed the proscription of which was necessary.

54. The Chairman asked whether it meant that no organisation would be allowed to have a connection with an organisation which had been proscribed by S for S. PS for S(Atg) replied that this was the meaning of paragraph 7.17 of the Consultation Document.

55. Referring to paragraph 7.16 of the Consultation Document which stated that "formal notification by the CPG that a Mainland organisation has been proscribed on national security grounds should be conclusive of the fact that the organisation had so been proscribed", Mr FUNG Chi-wood expressed concern whether it would give rise to a situation that it was not known to local organisations which organisations had been proscribed in the Mainland. He said that according to the explanation of PS for S(Atg), it seemed that S for S would promulgate a list of organisations which had been proscribed.

56. Referring to paragraph 35 of the submission from the Hong Kong Human Rights Commission, Mr CHAN Kam-lam asked whether Mr TSOI Yiu-cheong supported that Taiwan could declare independence and the PRCG should not interfere in it.

57. Mr TSOI Yiu-cheong responded that the Hong Kong Human Rights Commission had not discussed the issue of Taiwan. Mr TSOI said that he himself supported that the PRCG should use peaceful means to resolve the problem of Taiwan. He said that as the PRCG had held the international covenant on human rights and Universal Declaration of Human Rights in high regard, he hoped that the PRCG would abide by the principles enshrined in these documents in resolving the problem of Taiwan.

58. Mr CHAN Kam-lam said that as a fundamental principle, a Chinese national should support territorial integrity and national unity and must not accept that Taiwan claimed independence.

59. In response to some of the views expressed by the deputations, PS for S(Atg) pointed out that the Joint Declaration was an international bilateral agreement that had been registered with the United Nations. He said that the BL was to put into practice the Joint Declaration and since the implementation of the BL, the UK Government and the PRCG had never said that the BL was not in line with the Joint Declaration. He said that he did not understand why Hong Kong Voice of Democracy had alleged that the BL was in violation of the undertakings made in the Joint Declaration.

60. PS for S(Atg) said that the BL was the basis of the constitutional system of Hong Kong. The executive, legislative and judicial systems and powers of HKSAR and the exercise of the powers were all based on the BL. He said that the BL was also the cornerstone of the "one country, two systems" principle. The BL should not be implemented selectively, otherwise it would cause serious damage to the interest of Hong Kong.

61. PS for S(Atg) said that in the discussions on the proposals to implement BL23, the Administration could not attach importance to views that rejected the BL. He said that the HKSARG had to respect and implement the BL.

62. Mr FUNG Chi-wood said that under the "one country two systems" principle, rights and freedoms enjoyed by Hong Kong residents before the Reunification should be ensured by law. However, the Hong Kong Voice of Democracy considered that this would be affected with the enactment of legislation to implement BL23.

### **III. Any other business**

#### Date of next meeting

63. Members noted that the Council meeting on 11 December 2002 might continue on 12 December 2002 at 2:30 pm. They agreed that the next meeting originally scheduled for 12 December 2002 from 2:30 pm to 5:30 pm be re-scheduled to 14 December 2002 from 9:30 am to 12:45 pm to continue to receive public views on the Administration's proposals to implement BL23.

64. The meeting ended at 6:45 pm.