

立法會
Legislative Council

LC Paper No. CB(2)1800/02-03
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE/1

Panel on Security

**Minutes of special meeting
held on Wednesday, 15 January 2003 at 9:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon LAU Kong-wah (Chairman)
Hon Albert HO Chun-yan
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Howard YOUNG, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Michael MAK Kwok-fung
Hon IP Kwok-him, JP

Members attending : Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo

Members absent : Hon James TO Kun-sun (Deputy Chairman)
Dr Hon LUI Ming-wah, JP
Hon CHEUNG Man-kwong
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Audrey EU Yuet-mee, SC, JP

Public Officers attending : Mrs Regina IP, GBS, JP
Secretary for Security

Mr Timothy TONG, JP
Permanent Secretary for Security (Atg)
Mrs Jennie CHOK, JP
Deputy Secretary for Security 2

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Mr Michael WONG
Deputy Secretary for Security 3

Mrs Clarie LO, JP
Commissioner for Narcotics

Ms Winnie NG
Administrative Assistant to Secretary for Security

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

Staff in attendance : Mr Raymond LAM
Senior Assistant Secretary (2) 5

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

At the invitation of the Chairman, Secretary for Security (S for S) briefed Members on the policy agenda of the Security Bureau (SB) for the next 18 months as set out in the Administration's paper tabled at the meeting.

(Post-meeting note : The Administration's paper was subsequently issued to Members vide LC Paper No. CB(2)924/02-03(01) on 15 January 2003.)

Article 23 of the Basic Law

2. Referring to the public consultation on the Consultation Document on "Proposals to implement Article 23 of the Basic Law", Mr Martin LEE asked whether the report on the outcome of the consultation exercise would include views expressed in newspapers and submissions from overseas.

3. S for S responded that as stated in the Consultation Document, the public was invited to make their submissions to SB by post, by fax or by e-mail by 24 December 2002. The compendium on the consultation exercise would include all the submissions received by SB during the three-month consultation period. However, it would not include views and comments merely expressed in newspapers but not submitted to SB. S for S said that this had been the approach adopted for all Government consultation exercise. She added that the Information Services Department had been collecting public views from newspapers for the Administration and government officials were well informed of these views.

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4. Mr Martin LEE questioned why SB was not going to include in the report views and comments on the Consultation Document expressed in newspapers since SB had a good grasp of these views. He also queried whether it was fair not to include such views in the report and, as a result, the public could not know the views.

5. S for S responded that it had already been stated in the Consultation Document that submissions should be made through the specified channels to SB. She added that, at present, it was quite impossible to trace all the views and comments on the Consultation Document expressed in newspapers over the past three months. However, since the views and comments on the Consultation Document expressed in newspapers had been published, the public should not be unaware of them.

6. Ms Margaret NG said that public opinions expressed in newspapers, news commentaries, etc. were all along important to the Administration's formulation of policies. She considered that in formulating its policy on the implementation of Article 23 of the Basic Law (BL23), the Administration should also take into consideration public opinions expressed in newspapers and at public forums. She questioned that if the Administration decided not to include these public opinions in the report on the outcome of the consultation exercise, which Government departments would study the public opinions in formulating policies on the implementation of BL23.

7. S for S clarified that she had not said that the Administration would not take into consideration the relevant public opinions. She further said that the Administration had maintained dialogues with the media and the Administration would take into full consideration their views and would suitably revise its proposals. She reiterated that the compendium was only intended to cover all the submissions made to SB during the three-month consultation period.

8. Ms Margaret NG asked how the Administration would process the relevant public opinions, if they would not be included in the report on the consultation exercise. She also asked whether the views or information provided by the public to the Administration through other channels, such as during meetings held with the Administration, would be made public in the future.

9. S for S responded that the compendium to be published at the end of January would include all the submissions, including those in the form of e-mails, letters, fax and signature forms, made to SB or forwarded to SB by other departments. S for S reiterated that the Administration attached great importance to public opinions and would take into account all the views expressed in revising its proposals. She further said that in many instances, organisations which had expressed views on the implementation of BL23 in newspapers had also made submissions to SB to express their views. Moreover, she noted that organisations who felt strongly on the implementation of BL23 had already made submissions to SB during the consultation period. She believed that the compendium would be

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able to cover all the important public views expressed in newspapers on the proposals to implement BL23 in the past few months.

10. Referring to S for S's strong criticisms against the Hong Kong Bar Association and the Law Society of Hong Kong made on the television on the previous day, Ms Emily LAU said that S for S's appeared to be biased against opponents. Ms LAU further said that academics had expressed concern as to whether the Administration would adopt any objective criteria in its analysis of the submissions on the implementation of BL23.

11. S for S said that she had repeatedly stated on various occasions that the Administration fully understood the concerns of the public and would suitably revise its proposals. She explained that the Administration had a responsibility to make clarifications in response to comments which were exaggerated, untruthful and completely detached from reality. S for S further assured Members that all the submissions received by SB would be made public in the future, after due consideration of personal privacy issues. She said that the public would be able to peruse all the submissions on the implementation of BL23 made to SB.

12. Ms Emily LAU said that the public was most concerned whether the Administration would adopt any objective criteria in its analysis of the submissions received and how it would draw its conclusions from the submissions. She said that S for S's attack on people who held opposing views had already aroused public concern as to whether the Administration would really look at the submissions objectively and without bias.

13. S for S clarified that she had not attacked people who held opposing views but had only criticised comments and descriptions which were exaggerated and untruthful. She said that she had a responsibility to make clarifications on such comments and descriptions. As to the analysis of the submissions, S for S said that the Administration was going to set out in the report the numbers of people for and against the proposals to implement BL23. There would be a breakdown on the numbers of submissions made by individuals or organisations, by local residents or people outside Hong Kong, and of those made in the form of questionnaires, letters, etc. S for S said that as she had previously pointed out, the Administration would attach importance to constructive views and suggestions and those which had raised reasonable concern about certain aspects of the Administration's proposals. The Administration would suitably revise its proposals having regard to these views.

14. S for S further said that the Administration planned to publish the report on the consultation exercise at the end of January 2003. Subject to the endorsement of the Executive Council (ExCo), the bill to implement BL23 would be introduced into the Legislative Council (LegCo) in mid-February 2003.

15. Mr Michael MAK requested S for S to explain how it would conduct analysis of the submissions received in terms of "quantity" and "quality". He said

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that there was wide public concern as to whether the Administration's analysis of the submissions would be objective and fair.

16. S for S responded that as she had explained earlier, the Administration would provide detailed information on the "quantity" of the submissions and all of them would be published for the perusal of the public. As to the "quality" of the submissions, S for S said that it would not be too difficult to sum up and categorise the views and suggestions put forward in the submissions, since many of the views and suggestions were repetitive. She added that it should be important to note what changes the Administration would make to its proposals on implementing BL23, having regard to the views received.

17. Mr Albert HO also considered that S for S's criticisms of opponents and of public opinions opposing the proposals to implement BL23 had given rise to wide public concern. He said that the public was worried about whether S for S would really look at the submissions fairly, as she seemed to be biased against opponents and had labelled them as "opposing merely for opposition's sake" and so on.

18. S for S responded that the submissions received during the consultation exercise would be categorised based on the approach she had explained in the earlier part of the meeting. She added that only submissions indicating a very clear stance of supporting or opposing implementation of BL23 would be labelled as for or against the implementation of BL23. She stressed that the Administration would take into account all the views expressed and revise its proposals as far as possible.

19. Mr Albert HO asked whether the Administration had already decided that it would not issue a white bill setting out details of legislative proposals for further consultation. He also asked whether S for S was adamant that the bill to implement BL23 had to be introduced into LegCo in February 2003 and whether the bill had to be enacted before the end of the current legislative session.

20. S for S responded that these were the work plan of SB for the implementation of BL23 which had already been explained in September 2002 when the Consultation Document was published. How details of the legislative provisions would be published was a matter for ExCo.

21. Ms Cyd HO said that it remained unclear as to what criteria the Administration would adopt in evaluating the submissions made to SB on the implementation of BL23 and in deciding which ones the Administration would take into account. She considered that the Administration should announce the criteria adopted. She also considered that for the sake of fairness, the Administration should allow the public to submit views again, if they wished, after they had known the criteria that the Administration would use for the evaluation. She also requested S for S to explain the criteria to be used in evaluating the "quality" of the submissions.

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22. S for S responded that as the Administration had announced and also stated in the Consultation Document, the public should make their submissions to SB by 24 December 2002. It would not be possible to include views and comments merely expressed in newspapers but not submitted to SB, otherwise the Administration would not be able to know the accurate number of submissions received during the consultation period and could never compile the analysis of the submissions. S for S said that members of the public were well aware of this as seen from the fact that a lot of people had made last-minute submissions to SB during the last few days before 24 December 2002. She added that when the bill was introduced, the public would understand in detail the changes made to the original proposals on the implementation of BL23.

23. S for S further said that she had already explained on various occasions that the Administration would not accept views expressed out of misunderstandings of the Administration's proposals. The Administration would take into account views and concerns supported with facts and justifications.

24. Mr Andrew CHENG said that since the Chief Executive had stated in his 2003 Policy Address that the legislative process on BL23 would be "completely transparent", the best way for the Administration to allay the worries of the public about the implementation of BL23 was to issue a white bill.

25. S for S responded that the Administration was open-minded and would carefully study the views expressed during the consultation exercise and revise its proposals as far as possible. If endorsed by ExCo, the bill to implement BL23 would be released in mid-February and the public would see the changes made to the original proposals on the implementation of BL23. S for S said that people opposing the Administration's proposals should also be open-minded and should not presume at the present stage that the community would oppose the bill. She added that the Administration had a constitutional obligation to implement BL23 and it had made the greatest efforts in consulting the public on the proposed legislation.

26. Mr Andrew CHENG said that S for S should not have repeatedly described opposing views as "exaggerated and untruthful". He considered that in an open and progressive society, the Administration should be open-minded and welcome any criticisms and opposing views. S for S responded that she was not displeased with criticisms and opposing views. She said that she had only criticised comments and descriptions which were exaggerated, untruthful and completely detached from reality, and some of which were deceiving people.

27. Mr Michael MAK requested S for S to give specific examples of any opposing views which were deceiving people. S for S said that some people had used expressions like "imposing punishment subsequently" ("秋後算帳") to describe the Administration's proposals on implementation of BL23 and the description could not be further from the fact. She said that the Administration had already clarified for many times that the proposed criminal offences would not

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have retrospective effect.

28. Ms Margaret NG considered that the example quoted by S for S could be a case of misunderstanding or deceit. However, she pointed out that the proof of mens rea was required in making an accusation of deceit. She requested S for S to clarify if she considered that the example she gave was a case of deceit and whom she was accusing of deceiving the public. The Chairman said that S for S had already made the clarifications.

29. Mr LEE Cheuk-yan said that S for S's strong criticisms made on the previous day and at this meeting all pinpointed opponents only and this had aroused concern as to whether S for S would really conduct the consultation objectively. He requested S for S to re-consider whether or not she was still suitable for conducting the consultation and analysis on the outcome of the consultation, if she continued to show biases towards opponents in her speeches. He also said that since S for S could not substantiate her accusation that someone were "deceiving people", she should retract her words.

30. S for S responded that there had been enthusiastic response to the consultation exercise in the past few months and many views and suggestions raised were concrete and objective. However, some of them were exaggerated and untruthful. She said that as these views had given rise to unnecessary public concern, she had a responsibility to make clarifications. She disagreed that she was unsuitable for conducting the consultation because she had already studied a lot of the suggestions and views and had considered how to address the concerns by revising the proposals. She said that opponents should be open-minded and look at the revisions made by the Administration objectively when they were revealed in the bill to be introduced into LegCo. S for S said that she would not retract her words because in fact the comments and descriptions made by some people on the proposals were misleading if not deceiving people.

31. Mr Michael MAK suggested that the Legal Adviser of the LegCo Secretariat be requested to advise on whether S for S's accusation that someone were "deceiving people" was in contempt of LegCo if she could not substantiate her accusation.

32. Ms Margaret NG requested S for S to clarify the following regarding her accusation that someone were "deceiving people" -

- (a) which persons or organisations S for S was accusing of "deceiving people"; and
- (b) S for S had made the accusation based on what.

Ms NG said that S for S should retract what she said if she failed to answer the above.

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33. Mr Martin LEE questioned whether S for S meant that any descriptions made which deviated from facts should be regarded as acts intended to deceive people. He said that the Chief Executive (CE) had also said that freedoms enjoyed by Hong Kong people certainly would not be undermined by the proposed legislation to implement BL23 and he queried whether CE was also deceiving people. He also queried whether S for S was deceiving people when she said on the previous day that the number of participants during the public procession on 15 December 2002 in protest against the proposed legislation on BL23 was only about 12,000.

34. Ms Cyd HO pointed out that at this meeting when S for S first mentioned that some people had used expressions like "imposing punishment subsequently" ("秋後算帳") to describe the proposals on implementation of BL23, S for S had only used that as an example to say that some people had misunderstood the proposals. She agreed with Mr LEE Cheuk-yan that S for S should re-consider whether or not she was still suitable for conducting the consultation.

35. Ms Emily LAU also considered that the Administration should re-consider whether S for S was suitable for conducting the consultation. She further asked whether the report on the consultation exercise would include a section on views and comments categorised as "exaggerated, untruthful and deceptive" and reasons for such categorisation. She said that S for S should apologise or even consider to resign if such a section was not included in the report.

36. Mr IP Kwok-him said that since the publication of the Consultation Document, there had been very thorough discussions in the community on the Administration's proposals. He hoped that the Administration would take this matter forward in accordance with the time-table as S for S had mentioned and without delay. He considered that it was also unfair to presume, at the present stage, that the report on the outcome of the consultation would be biased.

37. S for S clarified that she had only considered some descriptive words as being deceptive, but had not pinpointed any people or LegCo Members. She said that based on the objective estimation made by the Administration, the number of participants during the public procession on 15 December 2002 in protest against the proposed legislation on BL23 was at maximum about 20,000. As to the handling of the submissions received during the consultation period, S for S said that the compendium would set out information on the "quantity" of the submissions based on the approach she had explained earlier. As regards the "quality" aspect, S for S said that the Administration would revise its proposals to address justified concerns. She further said that the Administration was of the view that the best way of taking this matter forward was to make public details of the legislative provisions as soon as possible. S for S added that the report on the consultation exercise would not have a section on views and comments categorised as "exaggerated, untruthful and deceptive".

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Abuse of drugs by youngsters

38. Mr Michael MAK considered that the Administration should allocate more resources to address problems of abuse of drugs by youngsters and youth crime. He requested the Administration to provide more details in this respect.

39. S for S responded that as a result of the Administration's sustained efforts in combating the problem of abuse of drugs by youngsters over the past two years, the number of drug abusers had dropped in 2002. The Commissioner for Narcotics supplemented that comparing the numbers of drug abusers in January 2001 and in January 2002, there was a drop of 3%. There was also a drop of 30% for drug abusers below the age of 21 during the same period.

Measures to combat crimes associated with increased Mainland travellers

40. Mrs Selina CHOW asked whether the Administration had any plans to address the possible rise of illegal activities associated with the increased Mainland travellers in Hong Kong as a result of relaxation of travelling restrictions.

41. S for S responded that as announced in the 2003 Policy Address, the Administration was liaising with Mainland authorities on further relaxation of current restrictions to facilitate Mainland residents visiting Hong Kong. She explained that the position of SB was that such relaxation should be made on the condition that it would not have an adverse impact on the crime situation of Hong Kong and that the increase in travellers could be handled by the existing immigration control points. S for S said that the Administration was liaising with the Mainland authorities on the necessary measures to be put in place to ensure that the relaxation of travelling restrictions would not lead to increased illegal activities conducted in Hong Kong, such as increased number of illegal workers.

42. The meeting ended at 10:40 am.